

SELECTIONS
FROM
REVENUE RECORDS,
NORTH-WEST PROVINCES.

- I — SPECIAL COMMISSION APPOINTED UNDER REGULATION I, 1821
II — CORRESPONDENCE REGARDING PERMANENT SETTLEMENT, 1807
III — CORRESPONDENCE REGARDING TENURES, 1808

PUBLISHED, WITH THE SANCTION OF GOVERNMENT, BY ORDER OF
THE BOARD OF REVENUE, NORTH WEST PROVINCES



ALLAHABAD

PRINTED AT THE NORTH-WESTERN PROVINCES' GOVERNMENT PRESS

1873.

PREFACE

THE present Volume of Selections contains, *firstly*, papers regarding the appointment and labours of the Special Commission empowered by Regulation I. of 1821 to enquire into fraudulent sales of land for arrears of Government Revenue; *secondly*, the correspondence of 1807 concerning a Permanent Settlement of these Provinces; and, *lastly*, the results of enquiry as to the landed tenures of the Provinces, which occurred in 1808. For many of the papers in the first series of Selections the Board of Revenue are indebted to the courtesy of the Bengal Government, from whom they were obtained. The rest have already been published with the Report of the Select Committee on Indian affairs of 1832.

This Series opens with Mr. Robertson's report calling attention to the state of affairs caused by fraudulent sales, and is followed by a Minute by Mr. James Stuart, pointing out the necessity of adopting a special remedy, and by the Resolution which issued on the enactment of Regulation I. of 1821. Three letters from the Governor-General in Council to the Court of Directors follow, carrying on the narrative of the Special Commission's labours to 1826; and the seventh paper is a comprehensive Note, giving a history and review of the whole proceedings.

The Reports of the Special Commission and orders thereon, some Selected Cases, with the reply of the Court of Directors to the letters of the Governor-General in Council, come next, the Series closing with a Note illustrating the mode in which proprietary rights were alienated by the system of farming the land revenue then in force.

It was hoped that the Report of the District of Allahabad would have been in, but it has not yet been received from the Board. By Regulation I. of 1829, the duties of the Special Commission were entrusted to the Commissioners of Revenue and Circars. At the first time appointed, and the Commission ceased to exist. It will be noted how the sphere of its enquiries gradually enlarged, and how, from a Commission enquiring into specific cases of land sale, it gradually became a Commission to enquire into the record landed tenures.

The papers composing the second and third series were selected from the Board's Records, and will be found of great interest. The last paper in the third series has already appeared in the Volume of Selections published in 1866, but is reprinted to complete the series.

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DATED 9TH SEPTEMBER, 1820

Draws attention to the condition of the ousted *zemindars* in Cawnpore, insists on necessity of placing landed tenures on a proper footing, illustrates and explains nature of *zemindaree* right, and the constitution of a coparcenary village, dwells on the results ensuing on the introduction of a stranger into the village as proprietor, advocates the immediate interference of Government in behalf of the ejected landholders of the district

Enclosure—Abstract of decisions in BECHA AND KESREE v NUJJUF KHAN

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- 15 31 No II—MINUTE BY JAMES STUART, Esq.—DATED 29TH
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Calls the attention of the Board to the fraudulent and excessive alienation of landed estates in Allahabad and the neighbouring districts, suggests the institution of a Special Commission, and gives an outline of the plan on which the Commission should be instituted

Enclosure A—Extract of a letter from the BOARD OF COMMISSIONERS, FURRUCKABAD, dated 18th September, 1810

Describes, from a Report by Collector of Allahabad, circumstances of certain sales in that district, points out the novelty of the revenue procedure of sale of estates for arrears of land revenue, suggests appointment of a Special Commission

Enclosure B—Extract from a letter to the BOARD OF COMMISSIONERS, dated 16th October, 1810

Passes orders of Governor General in Council on the previous reference, but reserves expression of opinion on the subject of a Special Commission till more specific propositions have been presented

Enclosure C—Extract from a letter from MR FORTESCUE, Judge and Magistrate of Allahabad, to MR C M RICKETTS, Secretary to Governor-General, dated 1st September, 1814

States that the change of property which has taken place since the promulgation of the Regulations has led in some cases to much destruction and bloodshed by ousted proprietors, and has brought much discredit

on the character and laws of the Government. Instances the fraudulent proceedings of the Raja of Benares and Baboo Deokce Nundun Singh in Allahabad; the appointment of the Board of Commission, and its recommendation for the institution of a special enquiry. Discusses and approves the suggestion, and sees cause daily to regret that the suggestion of the Board was not approved; gives a few examples of the mode in which sales have been effected: adding that the people have been followed and tripped up by the letter of the Regulations before they knew where they were, but that how to replace them on their former footing by its spirit is replete with embarrassments. Suggests institution of a special enquiry.

Enclosure D.—Extract from Mr. SECRETARY MACKENZIE'S Memorandum on the Settlement of the Ceded and Conquered Provinces.

Illustrates the mode and extent of transfers by sale, for arrears of revenue; expresses a doubt whether Government has not been over anxious to limit, as much as possible, the occasion of its direct interference; thinks that the mere institution of a special tribunal may be deemed to have been little more than a measure required for securing the existing law, but adds that it is now, perhaps, too late to revive the question.

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Details the arrangements necessary for giving effect to Regulation I. of 1821. Appoints officers of the *Sudder* and *Mofussil* Commission: selects Cawnpore as the district in which operations should be commenced, and lays down generally the course of procedure to be adopted.

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Reviews previous course of proceedings, and brings down the narrative of proceedings connected with the operation of the *Sudder* and *Mofussil* Special Commissions to the end of the year 1826, dwells on the distinction between *mocuddumee* and *zemindaree* tenures, and discusses the results obtained by the further enquiry into these tenures, carried out under instructions from Government by the *Mofussil* Special Commission, expresses satisfaction at the final general report of the proceedings of the *Mofussil* Special Commission in Cawnpore, and states that the results of their labours amply justifies their appointment, gives the grounds for the enactment of Regulation IV of 1826, and notices certain points discussed in the report of the *Mofussil* Special Commission and in the minutes of the members of the *Sudder* Commission, and makes further remarks regarding the terms "*zemindar*" and "*mocuddum*"

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Attention called to the subject by Mr Robertson, Judge and Magistrate of Cawnpore, quotes, in support of Mr Robertson's views, extract of a Minute by Sir Thomas Munro, dated 22nd January, 1821, recapitulates Mr Robertson's views and arguments, and traces the course of proceedings resulting in the passing of Regulation I of 1821. States the objections urged by the Judges of the *Sudder Dewanny Adawlut*, and the observations thereon of the Governor General in Council, dwells on the principles which ought to regulate the amount of compensation awarded to persons holding land illegally acquired at public sales, and instances cases; illustrates from the Commissioners' reports the way in which the sales were effected, which led to the appointment of a Special Commission, and especially dwells on cases arising out of errors of record and registration. Explains the circumstances which led to the passing of Regulation I of 1823. States the further objections recorded by the *Sudder* Special Commission against the measures taken under Regulation I of 1821, and the observations of Government. Distinction between the claims of persons designated by the terms, "*mocuddum*" "*malik*" and "*proprietor*". Remarks of the *Mofussil* Special Commission in their final report in Cawnpore as to the rights of parties claiming an interest in the soil, and remedy proposed by them for adjusting and ascertaining such rights, and views of the *Sudder* Commissioners. Resolution of Government that the definition of the rights of all the parceners in *putteedaree* estates should, if possible, accompany, and in all cases that it should closely follow upon the reversal of sale; passing of Regulation IV of 1826, giving extended powers to the Members of the *Mofussil* and *Sudder* Commissions

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- 101-120. No. VIII.—FIRST GENERAL REPORT OF *MOFUSSIL* AND *SUDDER* SPECIAL COMMISSIONS,—DATED 27TH APRIL, AND 8TH AUGUST, 1822.

Describes the eagerness of the ousted proprietors to avail themselves of the benefit of Regulation I. of 1821: and details the system of complicated abuse which had led to the transfers that Regulation was to remedy: the combined action of the principal *Sudder* and *Mofussil* Native Officers, with the measures adopted to render yearly accounts unintelligible. Illustrates at length the mode in which these transfers were effected in the several *Pergunnahs* of the Cawnpore District.

- 2.—From E. MOLONY, Esq., *Secretary, Sudder Special Commission*, to H. MACKENZIE, Esq., *Secretary to Government in Territorial Department*. Dated Fort William, the 8th August, 1822.

States that the *Sudder* Commission will reserve their own sentiments and views on the general subject of the *Mofussil* Commissioners' Report till the latter has finished its duties in Cawnpore, and furnishes an abstract report showing the number of causes disposed of by the *Mofussil* Commission up to the end of 1821 and the number depending on January 1st, 1822; recommends the appointment of an Assistant or Secretary to the Commission.

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- 121-138. No. IX.—RESOLUTION, GOVERNMENT OF INDIA, REVENUE DEPARTMENT, FORT WILLIAM, 2ND APRIL, 1824, ON POINTS CONNECTED WITH THE SPECIAL COMMISSION APPOINTED UNDER REGULATION I. OF 1821, AND MINUTES OF THE MEMBERS OF THE *SUDDER* COMMISSION.

Observations on *mocuddumee* and *zemindaree* tenures and the twofold application of the former term, whether as to the headman and representative of a body of *zemindars* possessing a clear, heritable and transferable right of property in the soil, subject only to payment of the Government Revenue, or to the headman and representative of a body of cultivators claiming no transferable property, and paying with the Government Revenue a clear rent or *zemindaree rusoom* to one or many proprietors. Points out the necessity of local enquiry in all cases of doubt, and desires review of judgments in certain cases noted.

Enclosure A.—Translation of Final Proceedings of the *Mofussil* Special Commission in the cause. Alim Singh, &c., plaintiffs, *versus* Tajooddeen Husein Khan, *Tehseeldar* and the heirs of Khan Khanan, 13th March, 1823.

Enclosure B.—Translation of decree of the *Sudder* Special Commission at a sitting held before Mr. Harrington and Mr. Paton, on 13th December, 1823.

Enclosure C—Translation of decree of the *Sudder Special Commission* in the referred case, Sheolal, plaintiff, *versus* Mussumat Shajoo, widow of Bhojè, and Hursuhal, adopted son of ditto, at a sitting held before Mr Harrington and Mr. Paton, on 27th December, 1823.

Enclosure D—Remarks by Messrs J H Harrington and W. Paton, Senior and Second Member of the *Sudder Special Commission*, 13th March, 1823

2. From E MOLONY, Esq, Secretary, *Sudder Special Commission*, to Messrs H. G CHRISTIAN and W. W. BIRD, *Mofussil Special Commissioners*, Allahabad, dated Fort William, 24th April, 1824 Directs further enquiry in two cases referred by *Mofussil Commission*, the chief object being to ascertain and define as correctly as possible the relative rights of *zemindars*, and *mocuddums*.

Enclosure A—Mr Harrington's Minute Sees no cause to alter the judgment of the *Sudder Special Commission* on the only point at issue between the parties, *viz*, the *zemindares* right in the contested villages respectively. Reviews the circumstances, but has no objection to calling for further evidence necessary to ascertain existing rights and interests as desired by the Right Hon'ble the Governor-General in Council.

Enclosure B—Mr Paton's Minute—Agrees in the course proposed by Mr Harrington

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157. No XI—FINAL REPORT OF THE MOFUSSIL SPECIAL COMMISSION ON THE DISTRICT OF CAWNPORE

1.—From Messrs H. G CHRISTIAN and W W BIRD, *Commissioners, Mofussil Special Commission*, to HOLT MACKENZIE, Esq, *Secretary to Government*, in the *Territorial Department*, Fort William—Dated Allahabad, the 11th August, 1823

Brings to notice that estates actually restored under Regulation I of 1821 are being repurchased by the Native Revenue Officers of the district.

2.—From *Commissioners, Mofussil Commission* to W. L. MOLONY, Esq, *Secretary*, to *Sudder Special Commission* Dated Fort William, 1st July, 1826

Notes the several instructions received, and proceeds to describe the state of things which existed for a considerable space of time previous to the Cession, the duration of the several political changes which successively took place, and the effect of those changes on the state of

4. On the other hand, I feel very little hesitation in asserting that, were the landed tenures to be placed upon a proper footing, and due precaution taken against future aggression, one-third at least of our police and judicial establishments might be, with safety, and advantage to the country, abolished.

5. To show the grounds whereon this opinion rests, I must touch upon a topic which has been so often discussed, that I should fear to approach it were I not encouraged by the confidence which daily and hourly practical experience is calculated to inspire,—I allude to the nature of what is called the *zemindary* right.

6. So little affinity is there between our European ideas of property, and those rights whereby land is in this country held, that our language does not furnish a word capable of expressing those simple yet curious combinations of tenures, which, to avoid the misleading title of an estate, I shall in the sequel denominate the “village communities.”

7. It would be altogether foreign to my design to entangle myself among the intricacies wherewith long discussion has encircled this question. Suffice it for my purpose to describe, if possible, what I have seen, and am constantly seeing,—that is, a state of society presenting, in its original and natural form, every means and facility for smooth and easy government, yet thrown into temporary confusion, and rendered difficult to manage, merely through the operation of one apparently erroneous principle.

8. The first mistake that seems generally to be made is that of regarding the *lumberdar*, or person engaging for the payment of revenue, as the exclusive proprietor of the soil, instead of considering him as the mere representative of the village community: or, in other words, sacrificing rights of occupancy in an attempt to establish actual property in the soil.

9. The very term “*lumberdar*” might be sufficient to establish a late innovation in the social economy of the country, as, if I mistake not, the English word “*number*” has been put into a Persian form to represent a right which has sprung up during the British rule.

10. The examination of a *putwary's* books is the surest mode of attaining tolerably correct ideas respecting landed property.

11. In those registers will be found, like a nucleus round which the whole system is formed, first the *seer*, or privileged lands of the *Thakoors*, or heads of the village community; dependant upon each division of this portion of the land, it will be perceived that there are a certain number of fields held upon various tenures by cultivators of different descriptions. A ryot of the *Thakoor*, or chief-tains kindred, will, even beyond the limits of the *seer* lands, enjoy, under a contribution equivalent to one rupee what a person of inferior order pays two for; and thus, through a number of gradations, is the whole land parcelled out under various terms and conditions, in a manner that, to those who put faith in the existence of a Hindoostanee landlord, must seem, and generally is, totally unintelligible.

12. Each holder of *seer* lands, of course, collects what is due from those ryots whose fields are annexed to his division; and were these collections regulated according to ancient custom, by certain rules having reference to the proportion of the crops, and operating as a defence to the labouring community, nothing would be easier than for the Government to bring the joint gatherings to a head, and realize the public revenue, without changing in any way the internal constitution of the village.

13. To illustrate the above by example, let it be supposed that, after deducting the land set apart for special purposes, as alluded to in the sequel in paragraph 24, there should remain in any village 1,000 beegahs of *malgoozary* land; suppose, also, that there are three chiefs of the village community, Bhugwund Sing, Runjeet Sing, and Seo Sing, of whom the first-named is the principal.

14. It is probable, then, that the land would be thus disposed of:—Bhugwund Sing, in the proportion of four-tenths, has the management of 400 beegahs, whereof 40 beegahs are his own privileged *seer* fields, exempted from revenue; Runjeet Sing, in the proportion of three-tenths, has the management of 300 beegahs, of which 30 beegahs constitute his *seer*; and so likewise has Seo Sing 300 beegahs under his charge, with 30 beegahs as his proportion of *seer* land.

25. Now the question is, by whom and to whom were all these grants made, and for whose benefit were they intended; for the property must be considered to have originally existed in that quarter whence the donation emanated, and now to reside with those to whom the profits at present accrue?

26. Dismissing the question of its origin as one of curiosity rather than immediate utility, there cannot be a doubt, according to the rule just suggested, which seems to me correct, that all of these grants and privileges actually belong to the village community.

27. The persons, whom it is now endeavoured to make landlords of, never could have acquired such valuable immunities to themselves, neither was it in their power, without some official confirmation, to confer them upon others; and, certainly, had they enjoyed, they never would so disinterestedly have exercised so very profitable a discretion.

28. On the contrary, at present one of the most frequent sources of contention is the invasion of those very privileges by the newly-created zemindars, who have all a propensity to cutting down mango topes, and appropriating to themselves tanks, wells, and grazing lands, annihilating, by every means in their power, this last vestige of those common possessions, upon the ruin of which their own new and exclusive right of property is built.

29. If what I have already written serves to convey any idea of what I feel that I can but very faintly describe, it will be easy to imagine the confusion and misery that must follow the introduction, amid a society so curiously constituted; of a stranger armed with power to sweep away at once all that has for ages constituted the comfort, the happiness, and the pride of the inhabitants of the village.

30. The exemption from payment of a higher rent on the ground of alliance to one of the heads of the village, must, by the new authority, be one of the first privileges to be disregarded, and the pride of many a Rajput be hurt by finding himself stripped on a sudden of what had before given him consequence and distinction.

31. The gardens and orchards, reared by themselves or their forefathers, are by all Natives regarded with a peculiar veneration and affection, as not only affording food and comfort, but constituting the great ornament of the country. Yet, on the introduction of a stranger, this, their last possession, to which they cling with a fondness that can scarcely be conceived by some who would eradicate not only the trees but those by whom they were planted, is, after a severe struggle, generally wrested from them.

32. The common which their cattle used to graze is next ploughed up, the tank is then rendered a sealed fountain, and even the well, which was constructed for the convenience of the public, does not always escape amid the rage for innovation and encroachment.

33. Their houses are generally retained, and these they continue to occupy under every mortification that can tend to sour their minds, and render them ready to disturb that tranquillity which they might so easily be brought to contribute to support.

34. But it is a great error to suppose that the influence of the old village *mocuddums*, or chiefs, can ever be destroyed; it exists even now, but, as was to be looked for, is directed to the promotion instead of the suppression of crimes.

35. Hence arises another evil: the necessity for village *chow-leedars*—a class of people who make wretched Police officers, and who interfere with, if not entirely derange, the old and once effective association of the village community.

36. The new *zemindar*, it must be observed, very seldom is so imprudent as to live within the village that he has acquired.

37. He delegates the duty of collection to an agent, who, backed by the authority of Government, is able to realize the revenue, and seize upon everything visible and tangible.

38. With the interior domestic economy of the village, he dare not, however, for his life interfere; and, regardless of the character of each inhabitant, whose means of subsistence should be almost daily known to a person in his capacity, he possesses no influence but what the fear of the *Darogah* inspires.

39. Here, then, the magistrate finds himself in a distressing dilemma; if crimes prevail, and he calls the new *zemindar* or his agent to account, they reply, that the old landholders and their connexions prevent them from knowing what is going on, and that, without the expulsion of those people, they can do nothing in the way of police.

40. If those old *zemindars* are called upon, their reply is obvious: "you have stripped us of power, how can you burthen us with responsibility?"

41. There is no other expedient left: *chowkedars* must be appointed; for there must be one responsible person at least in a village.

42. The duty of a *chowkedar* is one which none but the very lower classes can be brought to undertake; yet, when once established, the previously degraded class contrive, between the jealousies and contentions of the old and new parties, to acquire a most unnatural and pernicious degree of influence and power.

43. By siding with the new, to depress, and, if possible, utterly ruin, the old landholders, by entangling them in some *foujdaree* cause, or, as frequently happens, by linking, with the ruined and desperate, among the former possessors in a thieving confederacy, these wretches gradually become personages of considerable wealth and importance, and give a colour to the current saying, that this is a rule under which sweepers flourish.

44. The consequences of thus turning society topsy-turvy, and placing at the head those who but a few years ago were at the very bottom, may easily be imagined.

45. The Bowriahs, the caste to which the *chowkedars* mostly belong, are getting all round this station daily more powerful, and unless their influence be checked by the restoration of the higher classes to their rightful possessions and due preponderance, there seems, from the disposition of the former to combine, reason to apprehend the speedy introduction of something very similar to the Bengalee system of dacoity.

46. There are two Pergunnahs in this district which afford practical proofs of the comparative advantages of adhering to, or departing-from, the old established practice of the country. Seorajpore, from a combination of lucky circumstances, is still in possession of its original chiefs, no intruders having found admittance. Ghatumpore, another Pergunnah, is almost entirely in the hands of one Ahmud Buksh, formerly the *nazir* of the Collector's office.

47. Now in Seorajpore there is hardly ever a theft committed, while in Ghautumpore such occurrences are constantly happening.

48. In Seorajpore there is not a single village *chowkeedar*, and indeed, did I not fear that the present state of things will not long be suffered to continue, I should recommend a great reduction in the thannah establishment there maintained. Ghatumpore swarms with *chowkeedars*, and is therefore full of theft.

49. Indeed, I have not the least doubt that there would seldom be any more theft committed in a village that should be given back to its ancient chiefs, under an implied obligation to put a stop to such occurrences in future.

50. In whatever light therefore the question may be viewed, whether with reference to policy or justice, everything tends to prove the necessity for the immediate interference of the Government in behalf of the ejected landholders of this district.

51. Nothing can, I conceive, be more futile than the doctrine, that because a fraudulent transaction has been smuggled through the forms of office, the Government are pledged to maintain it as their deliberate act, and to be debarred from correcting any error that may have a tendency to admit upon the people that violence and wrong which those very forms were enacted to prevent and exclude.

52. In fact, the Legislature made provision, by the establishment of Civil Courts, for the revision of the acts of their Revenue officers, and now the only question that remains is, whether, since those courts are found to be insufficient, some other mode of repairing injuries may not be adopted.

53. That by a Special Commission alone this can be effectually done, I have, on a former occasion, shown to be the opinion of those best qualified to judge of the extent of the evil, and the nature of the remedy that should be applied.

54. That from the Courts of Civil Judicature, as at present constituted, redress is to be despaired of, I at the same time advanced considerable proofs, to which, that more may never be required, I now add another brief abstract of the proceedings in a suit that has more recently been disposed of.

55. I feel a particular satisfaction in being thus enabled to lay before the Government the deliberate opinion, upon a question of such importance, of one so fully able as the present officiating Provincial Judge, Mr. Perry, to comprehend its merits.

56. There remains but one probable objection to the direct interference of the Government that seems to require consideration, and that is the expense, or loss, that may be incurred in compensating some of the unjustly ejected zemindars for the deprivation of their rights.

57. This is an impediment which, however, threatening it may at a distance appear, will, I am certain, like most other difficulties, when boldly approached, diminish, if not totally disappear.

58. Of 100 ousted landholders, the most cautious cannot apprehend that more than 10 will stand in the unhappy predicament of being totally disqualified for redress by the simple act of restoration to their ancient rights. I am by no means of opinion that even this small number will be found to exist; but if they should be, is there any good reason for withholding justice from 90 because it cannot be extended to the remaining 10 ?

59. In taking this view of the question, it is of material importance to remember that if there be on the one side loss incurred, there is on the other a certainty of the continued necessity for a large, and probably increasing, expenditure.

60. From what has been above stated on the subject of the police, it must be manifest, that no reduction can in that department

be effected, while nearly half the villages in the District are deprived of their legitimate chiefs, and distracted by new-fashioned claims, arising out of the destruction of old established rights.

No. I.—Mr
ROBERTSON'S
REPORT.

61. In the civil department the business is accumulating at a rate that has already rendered a temporary addition to the establishment necessary, and will, I am certain, soon require a still further augmentation.

62. On a recent occasion the Court of Appeal, on a reference from this office for permission to retain a few extra *mohurrirs* observed that three-fourths of the business before them originated in this District.

63. This is a very remarkable admission. The single district of Cawnpore avowedly contains thrice the litigation within its own limits that is to be found throughout the united districts of Etawah, Farruckabad, Allygurh, Agra, Meerut, Saharanpore, Moradabad, and Bareilly; or 24 times as much as exists within any one of those Divisions separately.

64. If this striking difference between the state of Cawnpore and the adjacent Districts can be accounted for from any other cause than the happy exemption of the latter from those general innovations under which the former labours, I will readily acknowledge that there is nothing here that calls for extraordinary interference; but until the lamentable result shall be traced to some other source, I must continue to maintain that it constitutes in itself an unanswerable argument in favour of what I have advanced, that it establishes the value which the people have for land, and the determination of those who have unjustly lost, never to desist from their endeavours to regain it.

65. Suppose that, encouraged by the unhappy issue of the struggle between the old landholders and the interlopers in this quarter, wealthy and intriguing individuals should, as they have done in Allahabad, carry the same system of aggression into the western Districts, is it not very possible, or even probable, that the civil business in those Courts will gradually swell to 24 times its present bulk; and is it not most desirable that such an issue should be averted

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by timely interference to check the progress of an evil which, should it once overspread the country, will infallibly prove as embarrassing and burthensome to the Government, as galling and oppressive to the people?

I have, &c.,

(Sd.) T. C. ROBERTSON,
Judge and Magistrate.

[ENCLOSURE.]

Becha and Kesree, Plaintiffs, v. Nujjuf Khan, Defendant.

THIS was an action brought for the recovery of the village of Bhumrowleo, Pergunnah Moosanuggur, under the following circumstances.

The engagements for the revenue of this village were, at the period of the cession, and for the three subsequent settlements, taken from the plaintiffs, who all along held full possession of the same.

At the settlement of that portion of the district which, in the year 1220, was superintended by Mr. Balfour, one Nujeeb Ali Khan advanced a claim to the property, on the ground of his being the brother and heir of one Surwannee Khan, whose name it appeared had been, as the plaintiffs assert, through the connivance of the canoongōe, inserted in the column of proprietors in the tehseeldar's books. This was followed by an application from the defendant Nujjuf Khan, as purchaser of the estate from the above-named Nujeeb Ali Khan, and the Collector forthwith proceeded to conclude the settlement with the defendant, to the exclusion of the plaintiffs.

The possession of the plaintiffs and their predecessors, both before and after the cession, having been clearly established by the evidence of several respectable witnesses, and by papers bearing the seal and signature of the officers of the former Government, and the defendant having literally not a single proof, documentary or parole, to produce of the village having ever been held by Nujeeb Ali Khan, the seller, or his alleged brother, Surwannee Khan, or their predecessors, his witnesses distinctly admitting that they had

never seen either of those two men, their father or grandfather, in possession even for a single day. Judgment in the *Zillah* Court was given in favour of the plaintiffs

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On appeal to the Provincial Court, the Senior Judge, on the 8th December, 1819, recorded an opinion, of which the following is a literal translation —“ It is proper that the decree of the *Zillah* Court should be reversed, because the proofs produced by the defendant, in support of the reply in the *Zillah* Court were not inferior to the proofs adduced by the plaintiff in support of the claim, nay, they were even superior ” The defendant likewise has been in possession as *zemindar* for four years previously to the institution of the suit, and to justify the ejection of the party in possession strong proof is necessary, such as in this case is not procurable ”

On the 16th February, 1820, the following opinion was recorded by the Officiating Judge, Mr Perry —“ As it has not been established by a single credible and sufficient proof, what the right was upon the strength of which the name of Surwannee Khan was inserted as that of the *zemindar* in the book of 1210 F S, and as on the proof of this the subsequent insertion of the defendant's name, either, as stated in the reply, in consequence of the acknowledgment of the heir of the said Surwannee Khan, or in any other mode, must depend for confirmation as legal, and moreover, as by the evidence produced by the plaintiffs, their hereditary right to the village, and continued possession of the same up to the end of the year 1219, is clearly proved, upon these considerations, and likewise others stated in the decree of the *Zillah* Court, that decision in favour of the plaintiffs ought, in the opinion of the Officiating Judge, to be maintained ”

On the 9th March, 1820, the third Judge, Mr Elliott, delivered his opinion as follows —“ Whereas the plaintiffs have no other proofs to produce but that of their possession from the period of the cession up to the end of the year 1219, and the depositions of some witnesses, among whom two, namely, Phekoosal and Sobha Ram, are unworthy of credit, inasmuch as they are writers in the *canoongo's* office, and it was their own superior that recorded the name of Surwannee Khan, the ancestor of Najeab Ali Khan, in the

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column of *zemindars*; and moreover, as from a statement bearing the Collector's signature, it appears that ever since the period of the cession the name of Surwannee Khan has been recorded in the register of *zemindars*; and that in 1210 F.S., in consequence of his declining to engage, a *caboolat* was taken from Beeha as *moostajir* and *mocuddum*, and as from the commencement to the end, the said Beeha presented his petition under the appellation of a *moostajir* and as it is utterly incredible that any one, knowing himself to be the proprietor, should style himself *mocuddum* and *moostajir*; therefore, the third Judge concurs in opinion with the Senior Judge, and the Zillah decree is hereby reversed."

REMARKS.

The possession of the plaintiffs and their predecessors in their capacity of the chiefs and representatives of the village community from as far back as living testimony and oral tradition run, or village registers record, having been proved beyond all question or doubt, and the right of Nujeeb Ali Khan, the person from whom the defendants purchased (although a mere memorandum of a claim once being advanced by his reputed brother Surwannee Khan, does appear in a book in the Collector's office), never having been investigated, either at the cession in 1210, or at the last settlement in 1220, nor even on the present occasion by the Court of Appeal, I have only to observe, that as the principles maintained by this decision do find authority in the Regulations, it is impossible not to perceive the enormous extent to which the occupancy of the country may thereby be disturbed, and how directly the destruction of the ancient tenures, and the annihilation of the rights of the hereditary tenantry, may be traced to the influence and operation of the law, which, under such proceedings, seems to create those evils that Courts, Civil and Criminal, were instituted to prevent.

(Signed) T. C. ROBERTSON,
Judge and Magistrate.

No. II.

MINUTE BY JAMES STUART, Esq, DATED 29TH SEPTEMBER, 1820.

No. II.—
MR. STUART'S
MINUTE.

I SOLICIT the attention of the Board to a matter of considerable importance.

2. During the first six or seven years which followed the acquisition of the Provinces ceded to us by the Nawab Vizier, the mal-administration of Allahabad and some of the neighbouring Districts, combined with the intrigues and influence of certain opulent and powerful natives, and the poverty and ignorance of the *zemindars* and *talookdars*, led to the abusive alienation, to a great extent, of landed estates within those Districts, and to the consequent ruin and misery of the proprietors.

3. For a full detail of those transactions, I refer to the Reports from the Board of Commissioners, and from Mr. Fortescue, in his capacity of Judge and Magistrate of Zillah Allahabad, cited below.* The matter is also stated in Mr. Secretary Mackenzie's Report on the settlement recorded in the Revenue proceedings of the 16th September, 1820, paras. 533 to 544.

4. From those documents of which, for convenience of reference, extracts are annexed to this paper, the Board will observe that a special commission was strongly recommended by the Board and Mr. Fortescue, for the purpose of investigating the alleged abuses, and affording redress to the injured parties.

5. The consideration of the measure was postponed for the time, and has not been since resumed, owing probably to the suspension of the introduction of a permanent settlement into the Ceded Provinces.

6. Now that the measure of settlement in the Ceded and Conquered Provinces, upon fixed and permanent principles, is again

* Civil Cons., 16th October, 1810, Nos. 10, 11, 17, and 19; ditto, 12th August, 1817, No. 34.

under consideration, I venture strongly to recommend to the Board the institution of a Special Commission, as formerly suggested, for the purpose of investigating the abusive alienations in question. I beg accordingly to submit to the Board the accompanying paper, comprising an outline of the plan upon which the commission should be instituted.

7. The investigation of these cases, with any hopes of success, will require a thorough research into voluminous and complicated Revenue accounts. It will require local inquiries, and free and constant communications with the parties themselves, and with the local officers. The delays and forms of the courts of justice oppose great obstacles to their conducting investigations upon those principles; and the parties injured are equally incapable of supporting the expense of protracted litigation, and of defending themselves in that course of proceeding against the arts and intrigues of their opulent and powerful adversaries.

8. These reasons I have no hesitation in urging, as fully justifying a special deviation from the ordinary system of our judicial administration.

9. The delay which has occurred is unquestionably to be regretted; but I cannot think that it is a sufficient ground for excluding the injured parties from redress. It is a noble principle the English law that no time shall avail in favour of fraud; and I believe that there were never transactions to which the maxim was more justly applicable.

10. It would indeed be an afflicting reflection that men who have acquired estates by the basest means should enjoy all the advantages of a permanent settlement, while their victims should have their misery heightened by being the hopeless witnesses of the increasing value of the property of which they have been so iniquitously despoiled.

11. I trust that the Board will be of opinion that to permit such consequences would be inconsistent with the character and credit of the British Government.

(Signed) JAMES STUART.

A Special Commission be constituted for the investigation and decision of suits to recover possession of land lost through public sales or through private transfers effected by undue influence, between the period of the Cession and Conquest and the year 1810, including the following pleas:—

1st.—In cases of public sales, that no balance, or an inconsiderable balance, was due at the time of sale from the proprietor of the *mehal* sold, or that due notice and opportunity of payment of any balance due was not given before sale, or that sale was not regularly made according to the Regulations, or that the price paid was low and inadequate.

2nd.—That supposing the alienation, whether by public sale or private transfer, to be binding on the *sudder malgoozar*, the *mil-kecut* of plaintiff was not legally transferred by transfer of the *sudder malgoozar*, or manager's title.

3rd.—Generally, where the Commission shall see reasonable ground for believing that the public sale or private transfer was oppressive and produced by influence, or by undue advantage taken of the ignorance and inertness of the parties whose *mehals* may have been sold or transferred. In forming that conclusion, the fact that the purchaser or acquirer was an officer of Government, in whatever department, in the district within which the land transferred may be situated, or a relation, connection, or dependent of such public officer, or that he effected the purchase or acquisition through the influence of any public officer, Native or British, will necessarily have great weight, but it is to be understood, that *bona fide* purchasers at the public sales by public officers, not prohibited under the Regulations from purchasing at those sales, are not to be annulled.

In trying such suit, the local Commissioner shall be ordinarily guided by the existing Regulations, but with a full discretion of equitable interposition, and with ample authority to adjust disputes by inducing or compelling parties to compromise their contested claims in mutual concessions; and where necessary to adjudge compensations from the public purse.

Under this provision will be included cases of *bond fide* derivative acquisition of estates, the titles to which may be declared null according to the above rules.

Where compensation shall be adjudged in an amount exceeding 1,000 rupees, the sanction of Government shall be deemed necessary.

Local Commission to have jurisdiction in such Districts, or portions of Districts, as the Governor-General in Council shall direct by proclamation within the same.

Local Commission to consist of one or more members, as the Governor-General in Council shall determine.

Local commission to be authorized to take cognizance of cases decided by the courts of justice, to recall such cases now in appeal before the Provincial Courts and *Sudder Dewanny Adawlut*, and likewise to take immediate cognizance of cases pending in the *Zillah* Court, withdrawing them therefrom.

Local Commission to determine, subject to the orders of Government, its own form of proceeding, the nature of the pleadings, the mode in which they are to be conducted, the paper (stamped or unstamped) to be used, the fees to be levied, &c.

Process of commission to be enforced in the same manner as process of *Zillah* Court, and all powers in regard to contempt, the administration of oaths, &c., which are possessed by *Zillah* Courts, to belong to Commission, with full power of wholly dispensing with oath or *hulufnamah*.

Zillah Court to aid Commission by its officers.

Decisions of Local Commission to be reported to a superior Commission, to be appointed by the Governor-General in Council. All cases wherein any of the parties may be dissatisfied, the whole proceeding to be certified to the superior Commission. The lower Commission to be also empowered to certify any cases of peculiar importance and difficulty which they may judge to require the decision of the superior Commission; and in such cases distinctly to pronounce their own opinion on the case.

Appeal to England, in cases of ordinary appealable amounts.

[ENCLOSURE A.]

No. II —
MR. STUART'S
MINUTE.

*Extract of a Letter from the Board of Commissioners, Furruckabad,
18th September, 1810.*

On receipt of your Lordship's orders of the 20th June last, to report on certain petitions which had been submitted by the Judges of Allahabad and Goruckpore, the Collectors of those districts were respectively called upon for the necessary information, and we have now the honour to lay before your Lordship the substance of the report received from the Acting Collector of Allahabad, No. 1, petition of Syud Juhoo and others.

2. The petitioners complain of the sale made of their estate, *Mouzah Irawun, Turruf Poorub, in Pergunnah Hutgaon*, for a balance claimed by the late *tehseldar*, but which the petitioners deny to have been done by them.

3. This *Pergunnah* is one of those in the *tehseldaree* of which Baboo Deoko Nundun is surmised to have been interested; the nominal *tehseldar*, Mahomed Baker, and his successor, Seetul Persaud, being his supposed agents, and the surety, Jankee Persaud, being his son; and the present is one of twenty instances in this *Pergunnah* alone in which Jankee Persaud stands as the purchaser of estates sold for balances, or precluded balances, due to the *tehseldar*.

4. A principal abuse which has attended the universal contravention which was systematically pursued in the district of Allahabad, to the salutary prohibition of Government against the employment of nominal *tehseldars*, is to be found in the means thereby afforded to the real *tehseldars* of eluding the Regulations which preclude the Revenue Officers of Government from purchasing lands when exposed to public sale for the recovery of arrears of revenue. Standing themselves in the ostensible situation of sureties for the *tehseldars*, they have availed themselves of the subterfuge to become the purchasers of almost every estate which has been brought to sale previous to the year 1808, for balances due, or pretended to be due, to themselves.

5. In these sales not only no inquiry appears to have ever taken place in regard to the existence of the balances, but the lia-

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bility of the party and of his estate is found to have been taken for granted, on many occasions, upon very insufficient grounds. Estates which stand in the settlement account as let in farm are found to have been sold for an arrear due from the farmer on the allegation of a private engagement of the proprietor to the *tehseldar*, making himself liable for the farmer's balances. And from the report of the Acting Collector we are authorized to conclude, that the Notifications of the sale, the promulgation of which in their *Per-gunnahs* was always left to the *tehseldars* themselves, were seldom made public in time for the parties to take measures to obviate the sale.

6. On the present occasion, however, it would appear that the Notification of sale was issued on the 29th December, 1806, and that the sale itself took place on the 15th January, 1807, and this irregularity alone seems sufficient to vitiate the whole proceeding. But if your Lordship should not choose to proceed to a lapse of three years, we have only to suggest, that in granting the petitioners your Lordship's sanction to the institution of their suit, they should be directed to make Jankee Persaud a party to it.

7. Considering at the same time the nature and extent of the hardship in which the excluded proprietors in the *Zillahs* of Goruckpore, Allahabad, and Cawnpore, under circumstances similar to those above noticed, are placed, and the very great number of estates which, in manifest violation of the law, have been thus transferred; that the evil has been exclusively effected by the influence of the officers of Government, and under the abuse of its authority; that the suffering parties were recently become subjects of the British Empire, and were not only in general ignorant that their estates were liable to be transferred under a law totally foreign to their previous customs and rules of Government, but in many cases uninformed of the actual or intended sale, and unconscious of the alleged arrear; we are far from thinking that a permission to prosecute in the Courts of Justice the rich individuals by whom they have been deceived is likely to prove an adequate remedy or comes up to that measure of equity which the weight and circumstances of the damage require. We apprehend that the fraud and illegality which may be clearly established on the one part, and the igno-

rance and weakness of the other, call for the express and immediate interference of Government. And that a legislative provision might be enacted, constituting a Special Commission, with full powers to receive and reverse all iniquitous and illegal transfers of this nature, and to make such compensations and indemnities as peculiar cases might demand; and in pursuance of the object, it is our intention, in submitting to your Lordship in Council the settlements of the districts above mentioned, to point out the instances in which these transfers have occurred, and the most striking features with which they have been marked.

[ENCLOSURE B.]

Extract from a Letter to the Board of Commissioners, under date the 16th October, 1810.

7. WHATEVER reason may exist for suspecting that considerable abuses have been committed with respect to the sales mentioned in your report, the Governor-General in Council must necessarily be very reluctant to disturb possession actually acquired by the purchasers until the case shall have been submitted to a regular inquiry. The investigation which can be made by the Revenue officers must necessarily be imperfect; injustice might eventually be committed, and confidence in the public sales shaken. On these grounds His Lordship in Council is of opinion, that the settlement should be made with Jankee Persaud, and that the petitioners should be referred for their remedy to the Adawlut.

“ 8. It is evident in this, as in other cases, that the suits should be instituted against the individuals in possession. Should the petitioners, however, persist in their intentions of prosecuting Government, the Collector should of course be instructed to defend the suits.

“ 9. With respect to your intention of recommending the appointment of a Special Commission to enquire into and redress the injuries committed in regard to public sales by some of the late tehseeldars in the Districts of Goruckpore, Allahabad, and Cawnpore, the Governor-General in Council reserves his sentiments on the subject until you should have submitted to him more specific propositions on the subject.

[ENCLOSURE C.]

Extract from a Letter from MR. J. FORTESCUE, the Judge and Magistrate of Allahabad, to the address of MR. C. M. RICKETTS, the Secretary to the Governor-General, dated the 1st September, 1814.

“119. The change of property which has taken place since the promulgation of the Regulations has, in some instances, been productive of much bloodshed and destruction, committed by ousted proprietors; and in others its has been effected by a knowledge of the Regulations over the ignorance of the *zemindars*, which has brought much discredit on the character and laws of the Government. Although the object was evidently to extend with perfect equality and all practicable speed the just principles of the code, many of the most serious dacoities have been instigated and led on by proprietors who have been ousted from their estates. This subject, inasmuch as it relates to this district, I have already noticed sufficiently in paragraph 4 of this report; and with respect to the second point, of the discredit brought upon the Government and the Regulations, it is proper that I should be more particular.

“120. Immediately after the cession in 1801, two very distinguished characters, the Rajah of Benares and Baboo Deoke Nundun Sing, made their appearance from the contiguous province of Benares, in this district, with a number of very clever agents, well informed of the letter and practice of the Regulations, and eager to be employed in the newly-acquired territory. Their extensive property, influence, and readiness in revenue details, brought them into great favour with the European Collectors, and the greatest proportion of this district was put into their hands, through the medium of their chosen agents, some of whom were nominal *tehseeldars*, and others fictitious securities for those *tehseeldars*. The punctuality with which these persons continued to pay the public revenue relieved the Collectors from much trouble, and their suggestions to this effect were rarely opposed or inquired into. At length they obtained such uncontrolled ascendancy that their power became wholly perverted to their own interest, and to the sacrifice of the dearest rights of the landholders.

“121. At the period of the cession, the Rajah had no landed property, and the Baboo but one estate in this district, though in the

course of their sway, as above described, they acquired possessions yielding a Revenue to Government of several lacs of rupees. This large property was not realized by the appropriation of pecuniary funds, or other species of wealth in their possession prior to the cession; neither were the lands in this district so highly assessed as to support the belief that the proprietors could be easily induced to part with them for considerations; nor is it more extraordinary than certain that many of the very finest estates came into their possession. The fact is that ignorance and weakness on the part of our new subjects were played upon by every species of cunning and rapacity, unrestrained by any sense of shame or fear.

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"122. Fortunately the appointment of the Board of Commissioners to superintend the settlement and collection of the Land Revenue brought to light and suspended the iniquitous practices of the Rajah and the Baboo; and the members of the Commission, sensible of the oppressions under which the people had suffered, and of the modes by which these persons had acquired their possessions, recommended (if my recollection is correct) that a special inquiry should be instituted under the authority of Government, in order to reach the root of these numerous transfers, and to do justice to the cajoled and ousted proprietors.

"The suggestion, however, was not approved, and the aggrieved parties were directed to be referred to the Courts, the Collectors being at the same time instructed to afford every aid in their power, even to the payment of expenses, in order to facilitate the prosecutions.

"123. Nothing but a conviction of the peculiar nature of the transactions alluded to, as rendering them inapplicable to the procedure of our Courts could, (or)
mendation of the Board, while
and constitutional modes of process was not, it may be presumed, less a matter of extraordinary innovation in the eyes of Government. The truth is, that not only the first ignorance of our Regulations and practice yet remained, but a variety of other difficulties had also arisen, and would present themselves to thwart the complainant by the regular course of the existing laws. The people were

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no wiser than before, and in many cases the Collectors were, on the part of Government, defendants, jointly with the Rajah and the Baboo, for unjust sales of estates, which would preclude their rendering that aid in the prosecutions which the Government had intended generally. Special legislative provision to relieve these people would have been one of the most gracious and creditable acts that could have been displayed to our new subjects. It would then have appeared that grievances reaching the fountain-head were sure of redress; but as matters rested, it was conspicuous to every local observer, and echoed through the neighbouring districts, that the most consummate lawery had been practiced with impunity, and would continue unremedied.

" 124. It may appear extraordinary to a stranger why the Courts were not the proper tribunals to which to refer the complaints. This can only be known by learning a variety of matter, chiefly local, such as that the Rajah of Benares and the Baboo, with their agents, were well skilled in the Regulations in all legal forms, and precautionary measures under them, to an astonishing degree, and well aware of the importance of attending to these particulars; that the transactions rested chiefly on Revenue arrears, advances, and balance of accounts, which, if not early examined, could hardly be intelligible bye-and-bye, when particulars would be faded from memory, and witnesses no more; that the pressure of business in the courts necessarily produced delay, when papers were lost and complainants reduced with their families to poverty and impotence; that the judge is required to determine more particularly on the points brought and litigated before him, than to become the advocate of either party, or to change the whole character and course of the pleadings already prepared and legally completed, by assuming other ground of charge or defence in preference to that selected and adduced by either party; yet all this did exist, and such is requisite for the dispossessed and unthinking landholders.

" 125. In the cases that come before me as Judge, I feel embarrassed in the extreme, and see cause daily to regret that the suggestion of the Board was not approved.

" 126. It would be carrying this Report beyond all bounds to detail a fraction of the acts that have occurred: besides, that the real

facts would lose much from my want of capacity to display them in their true light. I have known a case wherein the defendant has not only had his estate sold for alleged arrears of revenue, but prosecuted separately for further balance, which the sale had not liquidated, when his own acts, acknowledgments and pleadings, have been such that, other extensive matter out of the question, he must have been cast; yet by ranging about from subject to subject, in favour of the dispossessed zemindar, when all his own and his pleader's ingenuity has failed, it has been found that the full Revenue and more was collected, and the estate purchased by a portion of that which had been withheld. In another case the utmost circumspection and

* *Sic.* legal* precision of an estate under a deed of sale, which could not be shaken by the ze-

mindar, who has failed in every point of his allegations; yet, when all his labours have proved nugatory, a new view of the case, thoroughly probed by myself, has wholly exposed the villany of the transaction. I mention these instances, not because they are by any means the blackest, but to show the extraordinary proceedings that are requisite to relieve the unfortunate zemindars. I am, however, by no means certain that it is compatible with a Judge's character thus to unite that of advocate for a party, in addition to his legal advisers; and, indeed, it is already proverbial, that there is a bias against those great personages. Such doubts, suspicions, and deviations from the common uninterested line of conduct of the Judge, as are now conspicuous in this Court, was unprecedented in my predecessors; and I am well assured that cases which have been lately invalidated, would, in the ordinary course, have been confirmed; indeed, I should be glad of the opportunity of revising those decisions, which early after my arrival were given by myself, not that I have any new or specific matter to allege, but that my present local experience deprives me of all confidence or assurance in them.

127. I regret to think that from the want of local information as to the cost and character of these transactions, and perhaps from my inability to seize on the advantages of the moment, or to display all *minutiae* with sufficient clearness and accuracy, the Judges of the Supreme Courts may in appeal be inclined to discredit in insulated

and individual cases, what a more comprehensive view would place in its true light; or that they may admit the legal precision which we are bound to respect and uphold as tantamount, or perhaps superior to all objections resting on ignorance of our laws. The people have been followed and tripped up by the letter of the Regulations, before they knew where they were; but how to replace them on their former footing by its spirit, is replete with embarrassments.

128. All those considerations connected with the strict, formal, and unprejudiced proceedings of a Court of Justice, which require that the Judge should know nothing of the cause prior to its being brought legally before him; that the parties should be strangers to him, and plead as they choose, selecting their ground and abiding by it; and that the merits of the cause, as stated, should decide the question, without reference to any extrinsic matter, are at variance with what justice demands in the cases here alluded to, but which might unexceptionably have been supplied in the form of a local Commission. The predicament was, I am inclined to hope, unprecedented, and a like act of our Indian Legislature could not have furnished any dangerous precedent hereafter. It could only be called for when the mischief was equally great, and the necessity similarly imperious.

129. There are some transactions of the description here alluded to now pending in this Court. Some have already been decided, and others are in a state of appeal; but there are many more not instituted from ignorance, poverty, or ruin; and some which are beyond relief from the death of persons, loss or destruction of papers, and absence of witnesses: there are also some persons now the farmers and principal cultivators of their lost estates, who are kept quiet for the present with small profits, not thinking that the object of their merciless landlord is thus to let them sleep away twelve years, in the hope of their being able legally to exclude them from redress.

130. Having dwelt so long on this subject, and yet but very imperfectly, I will conclude with recommending that it be made an object of inquiry by Government, and if I may suggest the channel, through the members of the Board of Commissioners, and the late acting Collector, Mr. Christian, who was the first Revenue officer to

display practically the true and impartial spirit of our laws, and whose local knowledge is extensive and correct from the long period he lived amongst the people during the formation of several settlements. These gentlemen have already set aside many of the blackest transactions on the part of the Rajah and the Baboo; and although some cases may be beyond reach at this distant period, yet I conceive the exertions of a local Committee, or individual appointed especially to investigate these transactions, and empowered to decide finally upon them, would tend to the relief of numbers, and add incalculably to the credit and character of the British Government.

131. Amongst the peculiar advantages of a special inquiry are to be reckoned the light which the cases will reciprocate one upon the other from uninterrupted investigations; showing at once clearly the real connection between the numerous real and fictitious names and agents employed, which occasional inquiries, after long intervals, and on particular points only in the Courts, preclude, without infinite labour and delay. All the Revenue records would be at hand to facilitate reference and prompt determination, which are not now produced in Court, but when specially called for by adjournments, and repeated precept, &c., such procrastination being too favourable to these great personages for the fabrication of proofs; for it must not be conceived that they possess any principle of honesty, or dread of subordination above the meanest subject. A broader principle of equity might also be adopted than the courts can be warranted to assume. Such, for instance, as when from particular circumstances sums may appear to have been paid by the Rajah or the Baboo, on account of arrears, &c., or they may have given some consideration, though neither is such as can be looked upon as equitable for the property so transferred or possessed by those personages, an award might be made to allow to the original proprietor the option of redeeming his property at such sum or on such conditions as the special case should justify.

132. There was another person of great rank and influence in this district (Baker Ally Khan, now dead), who, although he had no estate at the period of the cession, continued to possess himself of a large number, pretty much in the same way as the Rajah and the

Baboo, but certainly not with the same degree of iniquity. The whole number of estates still held by these three may be about 250, yielding a net aggregate Revenue to Government of about five lacs and a half of rupees.

[ENCLOSURE D.]

Extract from MR. SECRETARY MACKENZIE'S Memorandum on the Settlement of the Ceded and Conquered Provinces.

Para. 533.—In the Districts of Goruckpore, Allahabad, and Cawnpore, the public sales appear to have been greatly more extensive than elsewhere, but in all they have been considerable; and the private transfers by which our public officers—the retainers of the Court and the *Cutcherry*—have gained possession of estates, perhaps equally numerous, have scarcely proved less injurious in their effects on the interests of that great body of the agricultural community—the village *zemindars*.

. 534. The Board do not appear to have considered themselves entitled to interfere to relieve those from whom the *tehseldars* had contrived to obtain private transfers of their estates, stating, that as the persons who dispute the transfers were themselves parties to the deeds transferring the lands, they had thought it right to leave them to bring the question before the Courts of Judicature.

535. In this case, although the relative situation of the parties seems almost to preclude the supposition that a fair and equal bargain was made between them, and a summary interference in favour of the *zemindars* might perhaps have redressed much wrong that must now remain unremedied, yet, on the other hand, it would perhaps have been difficult to exercise such an interference without shaking the foundations of all private property.

536. That the evil was however no ordinary one, and that there was thence ground at least for considering the expedience of some extraordinary remedy, the description given by the Board of the state of things in Allahabad, in their report on the quartennial settlement of that district, will sufficiently evince.

537. They thus express themselves: "The numerous transfers by public and private sales, which in some Pergunnahs amount nearly to a total permutation of property, have not tended, from their following so immediately upon the introduction of the British Government, to render that Government popular; and as the purchasers in almost all the public sales are the actual *tehseeldars*, or the securities for the nominal *tehseeldars*, the credit of Government is to no small degree affected from these persons having been permitted thus to pervert the influence derived to them by their connection with the public service.

"The principal and most valuable part of the district appears on the cession to have been engrossed under the auspices of the then Collector, Mr. R. Ahmuty, by three persons, Rajah Oodit Narain, and Baboo Deoke Nundun from Benares, and Baker Ally Khan, the former Amil of Korah, &c. The landed property which these three persons still possess of what they acquired during the short period of the first triennial settlement, or by subsequent sales for balances alleged to have occurred on that settlement, amounted to an annual *jumma* of no less than Rs. 4,91,691, in the proportions of Rs. 1,58,157 to Rajah Oodit Narain, of Rs. 1,45,687, to Baboo Deoke Nundun, and of Rs. 1,87,847 to Baker Ally Khan, and if we add the *jumma* of those estates, which the present settlement has afforded an opportunity of resuming from Deoke Nundun, Rs. 62,499, and of two estates which have been resumed from the Rajah by decrees of the Court, Rs. 33,500, the aggregate of the original acquisitions of these three persons will be found to have amounted to an annual *jumma* of Rs. 5,87,490, being upwards of one-fifth of the revenue of the whole district.

"That the unpopularity which we hinted above to have attached from this proceeding to the name of Government, is more than a vague surmise, we could evince by adding, that when in the clamour with which we were assailed on our first visit to Allahabad, we observed to the complainants that an application to the Courts of Judicature would long since have brought to issue the question of the illegality of these acquisitions, and that such application was not now too late for reinstating them in their rights, if illegally usurped,—we invariably found them impressed with a conviction of the futility

of such a contest against the officers of Government, and with the idea which they did not disguise, of looking forward to the termination of the British Government for the recovery of their estates, from the consequent termination of the influence through which they have been lost.”

538. Although in many of these cases there appeared every reason to believe that the sales would, on strict inquiry, have been found to be invalid (as being often on fictitious balances, or for balances due by farmers), the Board were not authorized to give relief; and though the assistance of Government was in many cases given to the aggrieved parties in prosecuting for the recovery of their rights, it must be feared from the observations contained in the report submitted by Mr. Fortescue to the Governor-General, dated the 1st September, 1814, that the remedy has proved very inadequate, the officers of the Court being themselves parties to the fraud, or nearly connected with them.

539. In several instances, as has been already noticed, estates which had been confiscated to Government on the ground of illegal purchase, were restored to their original proprietors ; but the Rajah of Benares, and the other persons by whom the *zemindars* were so extensively tricked out of their patrimonial estates, still appear to hold very large possessions, from which, though apparently acquired iniquitously, they cannot legally be dispossessed, without at least some special provisions for the investigation of the cases, such as have been more than once recommended.

540. It may perhaps be doubted whether Government has not been over-anxious to limit, as much as possible, the occasions of its direct interference.

541. That the principle is a wise one, generally speaking, seems to admit of no doubt, and it is a decided mark of a very rude state of things, when the executive government of a country wrests the law to its authority in the hope of effecting much good by doing a little wrong.

542. In point of fact, however, things were in a very rude state on our acquisition of the Ceded Provinces. The system, indeed, has

yet hardly settled, or at least an acquaintance with it has not yet, it may be presumed, pervaded the agricultural community. It must be recollected too, that the parties are not simply individuals standing on a footing of equality, since the purchasers are persons who added to wealth and power an intimate acquaintance with the *arcana* of the court, who possess the ready means of securing its retainers in their service, and whose abuses were practised under cover of their authority as public officers.

543. Under such circumstances an interference by Government to correct the evils, which its system had so largely contributed to produce, might perhaps have been justified without risk from the precedent, and if the ordinary operation of the Courts has proved so little effectual, as is stated by Mr. Fortescue in the report above referred to, the mere institution of a special tribunal may be deemed to have been little more than a measure required for securing the existing law.

544. It is now, perhaps, too late to revive the question.

NO III

RESOLUTION—TERRITORIAL DEPARTMENT, 27TH FEBRUARY, 1821

REGULATION I, 1821, being now printed and ready for distribution, His Lordship in Council proceeds to pass the following Resolutions, in regard to the detailed arrangements necessary for giving effect to that law

NO III —
RESOLUTION
ON REGULA
TION I, 1821.

2 It appears to the Governor-General in Council that the *Mofussil* Commission will most advantageously be constituted by appointing to it two officers of talent and experience, the one belonging to the Revenue, the other to the Judicial branch of the service, and his Lordship in Council is accordingly pleased to determine that Mr H G Christian and Mr. W W. Bird shall be selected for this duty.

3 The investigation of the cases cognizable by the Commission will doubtless continue for a very considerable period, and, during its continuance must wholly occupy the time and attention of the Commissioners His Lordship in Council deems it therefore proper permanently to remove Messrs. Christian and Bird from the situations now held by them, and to consider the Commission as a substantive, though temporary, office

4 Mr. Christian and Mr Bird are accordingly this day respectively removed from the situations of Collector of Agra and Judge and Magistrate at Benares, and are appointed first and second members of the *Mofussil* Special Commission acting under the provisions of Regulation I, 1821

5 The duties of the *Mofussil* Commissioners requiring them to visit different districts and *pergunnahs*, will necessarily involve them in considerable expenso, and the highly important and responsible nature of the trust reposed in them, and the just pretensions of the officers who have been selected, are likewise circumstances rendering it expedient to fix their allowances on a liberal scale His Lordship

in Council therefore resolves to assign to each of the above-mentioned gentlemen a salary of *sicca* Rs. 40,000 per annum, to cover all expenses, to be payable, of course, in equal monthly instalments.

6. It appears to the Governor-General in Council that it will be desirable that the labours of the Commission should commence in the District of Cawnpore: and His Lordship in Council consequently resolves that the jurisdiction of the Commission shall extend to the said District from and after the 1st proximo, and shall continue to attach thereto for the period of one year from that date, or such other period as may hereafter be determined.

7. The Commissioners will accordingly be instructed to proceed to the above-mentioned district, for the purpose of giving effect to the Regulation.

8. On their arrival there, the Commissioners will cause a proclamation to be published in the several *Pergunnahs* of the District, apprising the community of the circumstance, and notifying the above Regulations.

9. The necessary communication will be made through the *Sudder Dewanny Adawlut* to the Provincial Court of Bareilly and to the *Zillah* Court of Cawnpore.

10. The Commissioners will likewise take such further measures as may be necessary for making the provisions of Regulation I., 1821, generally known and understood in the said District, and for apprising the community of the time and manner in which they propose to commence receiving and trying cases cognizable by them, together with such subsidiary matters as it may appear necessary or useful to announce. The *Mofussil* Commission will be authorized to hire an office at the *sudder* station of the District, or to make use of the Circuit Court-house, if such an arrangement can be adopted without interfering with the Judge of Circuit.

11. They will likewise be authorized to purchase a suitable office tent, and to entertain the necessary establishment for the care of it; they will procure adequate means for the conveyance of the public tent, and of their records, in such manner as may appear to them most advisable.

12. The *Mofussil* Commission will submit to Government a list of the establishment which they may consider it necessary to entertain as soon as they shall be able to form a judgment on the subject. In the meantime they are authorized to use their discretion in employing temporarily such officers as they may immediately require, submitting a contingent bill for the amount; and the civil auditor will be instructed to pass all contingent disbursements made by the *Mofussil* Commission, when the amount may be such as a Revenue Board would be authorized to pass. Other contingent charges will be submitted by the auditor to Government.

13. In cases; however, in which the Commission may adjudge compensation not exceeding Rs. 1,000, or in which they may adjudge the re-payment by Government of the purchase-money of any *mehal* of which the sale may be annulled, or in which they may direct the price of the stamped paper used for a plaint or petition of appeal in lieu of the institution fee to be returned to the party by whom the amount may have been disbursed, an order signed by the Commissioners, and specifying the nature of the charge, shall be sufficient authority for the Collector of the District immediately to pay the amount.

14. In regard to the establishments to be entertained, and contingent disbursements made by them, as well as generally in matters not immediately referring to their judicial proceedings, the *Mofussil* Commission will exercise their discretion in addressing Government directly or through the *Sudder* Commission, subject to such orders as may hereafter be passed in this behalf.

15. For the performance of the highly responsible and delicate functions belonging to the *Sudder* Commission, His Lordship in Council deems it proper to employ the united services of two members of the *Sudder Dewanny Adawlut*, and one of the members of the Board of Revenue, and is pleased to select for that purpose W. Loycester, Esq., the Senior Judge of the above mentioned Court, W. B. Martin, Esq., who will immediately be appointed Junior Member of the Board of Revenue, and W. Dorin, Esq., Officiating Paisno Judge of the *Sudder Dewanny* and *Nizamut Adawluts*. Those gentlemen are accordingly appointed the *Sudder* or Chief Special Commission, acting under the provisions of Regulation I, 1821.

16. The duties of the *Sudder* Commission, consisting in the examination of the reports which the *Mofussil* Commission are to furnish of their proceedings, and the revision of those proceedings in cases specially certified to them by the *Mofussil* Commission, or brought before them in appeal from the decision of that authority, will not, His Lordship in Council conceives, prevent the members of the *Sudder* Commission from devoting the largest portion of their time to the duties of the situations now held by them respectively. His Lordship in Council proposes therefore that Messrs. Leicester and Dorin should still continue in the exercise of the functions now exercised by them as Judges of the *Sudder Dewanny* and *Nizamut Adawlut*, and similarly that Mr. Martin should, along with the duties belonging to him as a *Sudder* Commissioner, discharge those of Junior Member of the Revenue Board.

17. The time occupied in this special duty must, of course, in its degree, reduce that devoted to the ordinary functions of the above-mentioned officers; and should it be ultimately found to require the adoption of any distinct arrangement, with the view of supplying what will thus be lost to the Court and to the Board, the Governor-General in Council will expect to receive a communication from the Commissioners, or from the Court or Board to which they belong.

18. His Lordship in Council proposes that one of the assistants to the Registrar of the *Sudder Dewanny* and *Nizamut Adawlut*, should officiate as Secretary to the *Sudder* Commission, to which likewise an adequate establishment of Native officers will be attached. The *Sudder Dewanny* and *Nizamut Adawlut* will be requested to report which of the above-named officers can be spared for the duty with least inconvenience. The *Sudder* Commission will submit to Government a schedule of the Native officers required by them, as soon as they may have sufficient experience of the nature and extent of the duty to be performed by them. In the meantime they will entertain such officers temporarily as may be immediately required; the expense, with other contingent disbursements, to be charged by their Secretary, in contingent bills, to be audited and paid like those of the Secretary to the Board of Revenue.

19. It might in some respects be convenient, that the *Sudder* Commission should hold its sittings in one of the established offices at the Presidency; but should the objections which His Lordship in Council understands to have occurred against the arrangement be found insuperable, the Commission will of course be authorized to hire a suitable house for their accommodation.

20. On this and other similar points, Messrs. Leycester and Dorin will report without waiting for the arrival of their colleague; and any two of the three Commissioners will similarly be authorized to exercise, in the necessary absence of the third, the powers vested in the Commission collectively, subject to the restrictions provided in the Regulation, and such as may hereafter be imposed.

21. The *Sudder* and *Mofussil* Commissioners shall, before entering on the performance of their functions, take and subscribe an oath in the subjoined form, to be administered in their first meeting, in the manner following—that is to say, by the *Mofussil* Commissioners each to each, the senior first administering the oath to the junior; and in the *Sudder* Commission, by the senior Commissioner to the two junior Commissioners, and to the senior Commissioner by the second, or in his absence by the third Commissioner.

22. With regard to the rules of practice and forms of proceedings to be followed by the Commissioners, His Lordship in Council presumes that it will not be necessary materially to deviate from the course followed by the Civil Courts, with this important exception, that it shall be especially their duty to institute an active inquiry into all the circumstances of the cases brought before them, and to take their own course for the investigation of the truth, without confining themselves to the points stated by the parties, or by any technical forms of pleading or management.

23. It will apparently be right to confine, within very narrow limits, the expenses incident to the institution and prosecution of suits in the *Mofussil* Commission, and likewise to encourage as much as possible the personal attendance of the parties or their private agents; His Lordship in Council conceives, therefore, that it may be advisable altogether to relinquish the use of stamped paper in that

tribunal. It appears likewise desirable that the *Mofussil* Commission should, as far as practicable, hold their investigation on the spot, or at least within the *Pergunnah* or *Tehseeldaree* to which the lands in dispute may belong. The adjustment of disputes by arbitration will naturally be encouraged to the utmost by the Commission, and the attainment of this object will doubtless be facilitated by their personal intercourse with the parties, and their presence in the near neighbourhood of the disputed *mehals*. Though it might be improper to forbid the use of *vakeels*, yet the employment of them ought not certainly to be absolutely required, and there may be some advantage in attaching to the Commission a certain number of persons skilled in Revenue accounts, who may act as the agents of the parties, with a Commission regulated by the nature and importance of their work.

24. In the *Sudder* Commission it may perhaps be advisable ordinarily to require a certain institution fee on appeals, leaving to that Commission the power of dispensing with the payment for special cause.

25. The form of pleading to be observed in this tribunal may be assimilated nearly to that used in the *Sudder Dewanny Adawlut* with the reservation above noticed, of a greater latitude in regard to forms and technicalities. Thus here likewise it would, His Lordship in Council conceives, be expedient to exclude private agents, and absolutely to require that absent parties should employ one of a fixed body of *vakeels*, or to reject pleas, in themselves essential, on the ground of informality.

26. It is not, however, the wish of His Lordship in Council to be understood as prescribing any specific forms of proceedings for either Commission.

27. It appears preferable to allow each Commission in the first instance to regulate its own proceedings, the determinations of the *Mofussil* Commission being of course subject to the revision and correction of the *Sudder* Commission.

28. The former will, therefore, be instructed to transmit to the latter, as soon as conveniently practicable, the draft of such rules of practice as they may see reason to adopt, and which may be of

a kind requiring to be formally notified. They will naturally make them as few and simple as possible.

No. III.—
RESOLUTION
ON REGULA-
TION I, 1821.

29. The *Sudder* Commission will revise the draft so transmitted, and issue such instructions to the *Mofussil* Commission, approving, confirming, annulling, modifying, or adding to the rules proposed, in such manner as they may see fit. The *Sudder* Commission will likewise frame such a set of rules as may appear to them necessary for regulating their own practice, and will transmit for the information of Government a copy of those so framed, as well as of those which they may ultimately prescribe for the *Mofussil* Commission.

30. The objects of the Regulation are so fully set forth in the preamble, that His Lordship in Council deems it sufficient to refer the Commissioners to it, in explanation of the views and intentions with which Government resolved on the enactment. His Lordship in Council is fully aware of the objections to which the measure is liable on general grounds, and has had recourse to so strong a remedial course only under a deep sense of the magnitude of the evil requiring to be corrected.

31. The character of the officers now selected to give effect to the law, affords a sufficient pledge of the judgment, discretion, and tenderness with which the special powers entrusted to them will be exercised; and will amply vindicate the Government in trusting to them a latitude of discretion that could not generally be allowed without the most serious mischief.

32. It is not, however, the personal character of the officers entrusted with the administration of Civil justice that has chiefly led to the institution of this special tribunal. In determining on the measure, His Lordship in Council has been still more influenced by the persuasion, that the system under which those officers have to act and the laws which they were bound to administer, are seriously defective in their application to the Ceded and Conquered Provinces. While the principles of Revenue management were very imperfectly settled, the Revenue authorities have been compelled to decide on the most important points relating to private rights, amidst the uproar of a general settlement, and under the urgency of securing the revenues of inordinately extensive districts. That

they should have frequently erred can excite no surprise : that their errors were extensively injurious, it would be preposterous to doubt.

33. In many instances those errors admitted of no legal remedy by the Courts, because they were committed in the exercise of a discretion which the Courts would not legally control ; and that the ordinary tribunals should, among a people new to our rule, and accustomed to the arbitrary domination of Native *amils*, have failed to protect the agricultural community from the consequences of the acts of the officers of Government, even where those tribunals were competent to interpose, is assuredly no impeachment of the individual functionaries by whom they were filled, nor any conclusive proof that they are not generally well adapted to secure the impartial distribution of justice between individuals, and in territories long settled under our Government.

34. The Resolution recorded on the proceedings of the 22nd December last, will generally apprise the *Sudder* and *Mofussil* Commissions of the chief points connected with the Revenue management of the country, which still, in the judgment of His Lordship in Council, require to be settled ; and though the labours of those Commissions are primarily to be directed to the relief of individual injury, His Lordship in Council confidently anticipates that their inquiries will in their result lead to many essential improvements in the general system of Revenue administration.

35. A copy of the above Resolution will accordingly be transmitted to the *Sudder* and *Mofussil* Commissions, and they will, of course, have access to any other papers in the records of the offices at the Presidency, the Boards, or Collectors, which they may desire to peruse.



No. IV.

REVENUE LETTER FROM BENGAL, DATED 10TH AUGUST, 1821, TERRITORIAL (REVENUE) DEPARTMENT, TO THE HON'BLE THE COURT OF DIRECTORS FOR THE HON'BLE THE UNITED COMPANY OF MERCHANTS TRADING TO THE EAST INDIES.

No. IV.—
REVENUE
LETTER FROM
BENGAL.

1. Your Honourable Court will have already received from the Judicial Department a copy of the Regulation passed by us on the 13th January, 1821, and intituled "A Regulation for the appointment of a Special Commission in the Ceded and Conquered Provinces, for the investigation and decision of certain claims to recover possession of land illegally or wrongfully disposed of by public sale, or lost through private transfers effected by undue influence; and for the correction of the errors or omissions of proceedings adopted by the revenue officers in regard to the record and recognition of proprietary rights, and the ascertainment of the tenures, interests, and privileges of the agricultural community."

2. Our proceedings connected with the adoption of this measure have already been transmitted to you; and the grounds on which the Regulation was enacted are so fully stated in the preamble, that under ordinary circumstances we should have considered it unnecessary to trouble your Honourable Court with any further exposition of the reasons by which we were influenced, and should have contented ourselves with a brief explanation of the arrangements adopted by us for giving effect to the law.

3. The Judges of the *Sudder Dewanny* and *Nizamut Adawlut* having, however, in separate Minutes, recorded an unanimous opinion against the propriety and even legality of the measure, it is of course our duty to put you fully in possession of the objection urged by those officers against the law, and at the same time to explain the grounds on which we have resolved to maintain it without any immediate alteration.

4. For this purpose we now do ourselves the honour of transmitting to you a copy of the Minute in which Mr. Stuart recommended the institution of a Special Commission, with the papers annexed to it, copies of the several Minutes submitted by the Judges of the *Sudder Dewanny* and *Nizamut Adawlut* to which

we have above referred, together with a copy of the Resolution which we have this day passed, after the most deliberate consideration of the last-mentioned papers.

5. The full discussion which those papers contain in regard to the general necessity of the law, and the expediency of its several provisions, appears to render it superfluous for us to add anything on those points; more especially as the papers submitted with the despatches noted in the margin will have already afforded to you all the detailed information relative to the past Revenue Administration of the country, and the principles and rules by which we propose hereafter to be guided, that can be required to elucidate the general positions to which we now solicit your assent.

6. For your immediate information, in regard to the most important of the arrangements which we have adopted for giving effect to the Regulation, we enclose a copy of a Resolution passed by us on the 27th February last; and for further details we beg leave to refer you to the proceedings of the annexed dates.

7. We shall of course hereafter submit to your Honourable Court a full report of the proceedings of the Commissioners, having required them to furnish regular periodical statements of the several decisions passed by them.

8. Convinced that this arrangement is calculated to secure the most essential public benefits, and to remedy great and cruel wrongs, we earnestly hope that it will receive your approbation and support.

9. It may be proper to explain that previously to the final publication of the Regulation, we had learnt generally that the sentiments of the *Sudder Dewanny* and *Nizamut Adawlut*s were adverse to it, and that they intended to submit to us a report of their sentiments. The second Judge had, indeed, even before its enactment, stated his opinion on the subject in a private form.

It thence appeared to us advisable to postpone for a time our intended communication to your Honourable Court, so that in bringing to your notice the grounds on which we had resolved on the adoption of the measure, we might at the same time submit to you the various objections to which it was liable, with a full explanation of our sentiments on their force and validity.

No. V.

EXTRACT FROM GENERAL LETTER, CEDED AND CONQUERED PROVINCES, DATED 30TH JULY, 1823.

88. The proceedings of the annexed dates contained our correspondence with the Special Commissioners appointed under the provisions of Regulation I. of 1821. It consists chiefly of reports of the cases decided by the *Sudder* Commission in appeal, which being drawn up clearly and with much apparent accuracy, afford a very distinct view of the circumstances in which the different suits originated, and the grounds of the decisions passed. In general, we are happy to perceive that the judgment of the *Mofussil* Commissioners is affirmed; while at the same time it appears that their proceedings are rigidly sifted.

89. Viewing simply the number of cases which have come before the *Mofussil* Commissioners, we should have little hesitation in affirming on that ground alone the necessity of a special tribunal. And although the cases appealed are, of course generally speaking, those most favourable to the parties against whom the law was directed, the character of the proceedings appears sufficiently to evince that the interposition of Government, to correct the evils that had resulted from the abuse of its laws by persons vested with its power, was urgently required.

90. The annexed proceedings contain a general report of the *Special* Commission on their proceedings in the District of Cawnpore, and the views which they had thence been led to form in regard to the necessity of the law and its general effects. It will be read with much interest. The sentiments of the *Sudder* Commissioners do not altogether accord with those entertained by the *Mofussil* Commissioners, nor indeed do they altogether agree among themselves. Our own views certainly incline to those of the *Mofussil* Commissioners, who possess undoubtedly the best means of forming an accurate judgment, and whose candour in reporting their opinion we consider to be above all exception; though selected to administer the law, they may naturally be somewhat partial to its provisions.

No. V.—
EXTRACT
FROM GENERAL LETTER,
CEDED AND
CONQUERED
PROVINCES,
DATED 30TH
JULY, 1823.

No. V.—
EXTRACT
FROM GENERAL LETTER,
CEDED AND
CONQUERED
PROVINCES,
DATED 30TH
JULY, 1823.

91. We shall not, however, at present enter on any detailed discussion on the point. When the proceedings connected with Cawnpore are completed, we expect to receive a full and comprehensive report of the practical effects of the Regulation.

92. We have of course been anxious to avoid every interference with the decisions of the *Sudder* Commission in individual cases, and are happy to say that they have generally met our entire approval.

93. In one case, in which the *Sudder* Commission did not consider themselves justified in setting aside a sale, we resolved (the purchase having been made in a fictitious name) to enforce the forfeiture which had been incurred, and to restore the property to the ancient proprietors.

94. In another case, an estate forfeited to Government through the rebellion of the original engager, having been illegally disposed of by the Board of Revenue, to the injury of the subordinate proprietors, we annulled the transfer, with which the *Sudder* Commission did not hold themselves competent to interfere, and directed the Collector to adjust the rights of the several parties claiming a proprietary interest.

95. With respect to the compensation assigned to parties ousted by the decree of the Commission, it was still more our wish to avoid any interference: and we are happy to say that we have only once seen reason to interfere, and on that occasion the *Sudder* Commission solicited a communication of our views.

96. The *Sudder* Commission having construed the rule contained in Section 3, Regulation I., of 1821, as barring the cognizance by the Commissioners, acting under the provisions of the said Regulation, of suits to recover possession of land illegally or wrongfully disposed of by public sale, excepting in cases wherein the sale shall have been effected by the undue influence of a public officer, and such a restriction of the jurisdiction of the said Commissions appearing to be not only incompatible with the design of the said Regulation, but also inexpedient, inasmuch as it in many cases restrains the Commissioners from annulling sales of which the illegality

has been fully established, and exposes the parties who have suffered by such sales to unnecessary expense and delay that must attend the institution of a new suit in the ordinary Civil Court, we resolved to pass a Regulation vesting the Commissioners with the cognizance of all suits and claims to recover possession of land lying within the local limits to which their authority may extend, which may have been lost through, or by consequence of, public sale made in liquidation of alleged arrears of revenue, within the period specified in Clause 1, Section 3, of the Regulation, although there might be no proof that undue influence had been exercised by any public officer to the injury of the plaintiff. We at the same time made provision for the rehearing of cases that might have been dismissed under the construction above stated, and of course determined that the principle of the new law should apply to all cases pending in appeal: the necessary rules were enacted as Regulation I., of 1823.

No. V.—
EXTRACT
FROM GENERAL LETTER,
CIVIL AND
CONQUERED
PROVINCES,
DATED 30TH
JULY, 1823.

No. VI.

REVENUE LETTER FROM BENGAL, DATED 31ST MAY, 1827; TERRITORIAL (REVENUE) DEPARTMENT, TO THE HONOURABLE THE COURT OF DIRECTORS FOR THE AFFAIRS OF THE HONOURABLE THE UNITED COMPANY OF MERCHANTS OF ENGLAND TRADING TO THE EAST INDIES.

HONOURABLE SIRs,—In a separate despatch from this Department, dated 10th August, 1821, we reported to your Honourble Court the objections urged by the Judges of the *Sudder Dewanny* and *Nizamut Adawlut* against the enactments of Regulation I., of 1821, together with the grounds on which we resolved to maintain the laws without any immediate alteration.

No. VI.—
REVENUE
LETTER FROM
BENGAL,
DATED 31ST
MAY, 1827.

2. Of this despatch your Honourable Court have not yet favoured us with any specific acknowledgment. But in paragraph 76, of your letter of the 11th June, 1823, adverting to the Commission appointed by the Enactment in question, your Honourable Court express yourselves as follows:—

3. “On this measure we shall take an early opportunity of communicating to you our sentiments at large; and on that occasion we shall more fully explain to what extent we conceive the operations of so important an instrument of inquiry and decision might be usefully carried. At present it is sufficient for us to say that we can see no reasons which tend to recommend it in the cases for which you have thought proper to employ it, according to Regulation I., of 1821, that are not of equal force to recommend it in those which are now under consideration (*i. e.*, inquiries regarding rent-free, *ayma* and *mokurrurce* tenures, which, under Regulation II., of 1819, devolve on the Collectors), as well as in some others of a very important nature to which we shall hereafter direct your attention.” Again, in paragraph 31, of the letter on the Revenue administration of Cuttack (dated 10th December, 1823), your Honourable Court observe as follows:—

4. “The number of questions to be determined, relative to *lakhiraji* tenures in this Province, requires, it is manifest, the

No. VI.—
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LETTER FROM
BENGAL,
DATED 31ST
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appointment of a peculiar tribunal for their determination, the ordinary Courts being altogether incompetent to the duty; and among the practicable expedients in your power nothing appears to us likely to accomplish the object more efficiently than the appointment of a Special Commission, of the nature of that to which you resorted for the decision of certain claims to recover possession of land illegally or wrongfully disposed of by public sale in the Ceded and Conquered Provinces, and constituted by Regulation I., of 1821. If such a Judicial Commission as this were appointed, and along with it a surveying establishment, the exact determination of quantities and boundaries, and the exact determination of rights might be carried on at the same time; and every part of the requisite knowledge would in this manner be acquired."

5. In the 23rd paragraph of your despatch of the 10th November, 1824, your Honourable Court, we conclude, refer to the last cited paragraph, observing that in a despatch relative to Cuttack you had already furnished us with an outline of your views relative to the use which might be made of such a commission, and you therein propose to enter more largely into the subject, when you reply to the report promised by Government, and which you expected at an early day relative to the proceedings under Regulation I., of 1821.

6. The promise, to which your Honourable Court here alluded appears to us to be the one made in paragraph 178, of our Despatch regarding the Revenue affairs of the Ceded and Conquered Provinces, dated the 1st August, 1822, wherein we proposed soon to submit to you the detailed statements and reports which we have directed the Commissioners to furnish of the cases decided by them.

7. We accordingly, in our subsequent letter (dated the 30th July, 1823, paragraphs 88 to 99) in the same department, had the honour of bringing to the notice of your Honourable Court our correspondence with the Special Commission up to the date of our Despatch, together with the considerations which led us to enact Regulation I., of 1823, by which we have vested the Commissioners with the cognizance of all suits and claims to recover possession of lands, lying within the local limits of their jurisdiction, which may have been lost

through, or by consequence of, public sales made in liquidation of alleged arrears of Revenue, although there might be no proof of undue influence on the part of any public officer having been exercised to the injury of the plaintiff.

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8. We are yet without the benefit of the detailed observations promised by your Honourable Court, relative to the Special Commission appointed under Regulation I. of 1821, and which we conclude we may expect in your reply to our Despatch above adverted to; but as we postponed the discussion of the necessity and the general and practical effects of the law in question, till the completion of the proceedings pending in the District of Cawnpore, and the final reports, with the Minutes and Resolutions connected with the Cawnpore suits, have been at length received and recorded, we deem it our duty again to address your Honourable Court on the subject in this separate form, to lay before you the views and sentiments entertained by us, and, at the same time, bring down the narrative of our proceedings connected with the operation of the *Sudder* and *Mofussil* Special Commissions to the end of the year 1826.

9. On our proceedings of the annexed dates your Honourable Court will find recorded the several monthly and annual abstract statements of cases decided and pending, furnished by the *Sudder* Special Commission, from the date of our despatch above adverted to up to the end of 1826, together with the English reports of cases decided on their merits, prepared by the Secretary.

10. In regard to the decisions which have been passed by the *Sudder* Special Commission, as detailed in those reports, we are happy to observe to your Honourable Court that they have generally appeared to us to be very satisfactory. The circumstances, indeed, of the several cases have materially tended to strengthen and confirm the opinion which we have all along entertained of the necessity of the special enactment, under which the Commissioners were constituted, and that the operations of those tribunals have been most extensively beneficial in correcting the evils which had arisen from the abuse and mismanagement of former times. It has been particularly gratifying to us that in the whole course of the proceedings now adverted to, we have not seen a single occasion to interfere with the judgment passed by the *Sudder* Commission in awarding

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compensation to parties dispossessed by their decree; and in the only two cases in which we deemed it of importance that their decisions should be revised, and a more full inquiry entered into, the *Sudder* Commission have, on the further evidence obtained by them, amended the decisions passed in the first instance.

11. The reports of the cases to which we allude when first decided, will be found recorded on the proceedings noted below. The terms *mocuddum*, *malik*, and *proprietor* having been applied in the reports to the different parties in a manner which did not afford a distinct notion of the nature and extent of the interest considered to be vested in each, we deemed it expedient to require from the *Sudder* Special Commission an explanation of the force of those terms as applied to the cases in question.

12. From the reply made by the *Sudder* Special Commission to the above orders, it appeared to us that their decisions in the two cases alluded to had been mainly founded on an assumption that the *mocuddumee* tenure is necessarily distinct from and subordinate to the *zemindaree*; this assumption, however, which had arisen out of the great misapplication of the Revenue designation to tenures, the precise nature of which was little, if at all, understood at the period of our acquiring the Western Provinces, was one which obviously could not safely be acted on in all cases. Past inquiries had led us to believe that in some cases the *mocuddum* was the headman or representative of a body of *zemindars* possessed of a fixed heritable and transferable right of property in the soil; in others, the leading ryots appear to have been so designated, and were supposed to possess some fixed property in the perquisites of office. Again instances had been adduced in which the *mocuddum* was represented as the mere agent of the *zemindars*, and holding at pleasure; while it had, in other cases, been stated that in the same village there were to be found *zemindars*, with *zemindaree* rights and *mocuddums* with *mocuddumee* rights, both having a distinct, though fixed, property; and there was no question that, in the records of the first settlements, persons engaging had been entered as *zemindars* and *mocuddums* without any clear and distinct reference to the actual state of things, or to the force and meaning attached to such denominations by the people themselves.

13 Hence, though it might appear clear that an individual who on our acquisition of the provinces, was called a *mocuddum*, was not the sole proprietor of the village, it was not on that account safely to be assumed that he held under a superior *zemindar*. In some cases he might have done so as the representative of the class of occupant cultivators, but, in other instances, he might have been himself a sharer in the *zemindaree*, and the representative of a coparceny of proprietors.

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14 It was clear, therefore, that without a minute inquiry into the circumstances of each case, with due advertence to the denominations used by the people themselves as designating the different kinds of interest and property in the soil, and to the manner in which these interests had been confounded by the terms used in the public records, there was little chance of arriving at a satisfactory decision on conflicting claims to engage with Government.

15 The *Sudder* Special Commission, indeed, in their communication now adverted to, stated that, "the cases hitherto brought before them had not enabled them to define with any exactness the nature and extent of the interests generally considered to belong to the *mocuddmee* tenure in the District of Cawnpore," in the cases in question, therefore, where the existence of a *mocuddum* as inferior to a *zemindar* was assumed, if the extent of right possessed by the former was undefined, it was clear that the rights of the latter, restricted as they must in some measure be by the interest of the *mocuddum*, must be equally undefined and consequently there was reason to apprehend that the decisions, although they might be correct in the individual cases, might lead to error, by giving a force to the terms *zemindar* and *mocuddum*, which would not admit of general application.

16 Under these circumstances, we deemed it proper to suggest to the *Sudder* Commission the expediency of revising their decision in these cases, and of instituting, through the medium of the *Mofussil* Commission, a local inquiry, with a view to ascertain fully the nature and extent of the rights possessed by the parties, as well as generally the nature of the *mocuddmee* tenure in Cawnpore. Your Honourable Court will observe, from the further proceedings re-

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corded in the dates noted below, that this measure was readily adopted by the *Sudder* Commission, not only in the two cases alluded to, but likewise in another case of a similar nature which had been decided by them. The instructions issued by the *Sudder* Commission for the conduct of this enquiry, were such as to meet our full approbation.

17. Your Honourable Court will find the result of this enquiry very fully detailed in the general report received from the *Mofussil* Special Commission, which is recorded on the date annexed. In regard to the meaning of the term *mocuddum* as it obtains in Cawnpore, we shall have occasion to speak generally in a subsequent part of this address. It will suffice to notice here that the circumstances of the two cases more immediately adverted to, appear to have been very fully developed, and that the further evidence adduced has completely satisfied the *Sudder* Commission of the propriety of altering former decisions. Complete reports of the final judgment passed in both cases will be found recorded on our proceedings of the dates noted below.

18. Of the reports recorded on our proceedings during the year 1825, we have merely to observe, that in one case a petition was presented to us against the decision which had been passed by the *Sudder* Commission, but the propriety or equity of which we saw no reason to doubt, and we consequently refuse to exercise any interference in the case.

19. Among the reports your Honourable Court will find many decisions of the *Sudder* Special Commission relative to estates in the District of Allahabad. The general nature of the cases in that district will be more fully noticed at a future period, after we shall have received from the Commissions a review of their operations connected with it. Generally speaking, we have seen reason to be entirely satisfied with the decisions passed by the Commissions, which evince that the evils requiring remedy in Allahabad were fully as extensive as in Cawnpore, while many of the cases present features of peculiar hardship to individuals, and the grossest fraud and injustice on the part of the Native revenue officers employed in the early administration of the revenue of that district.

20. Your Honourable Court will find on the proceedings of the annexed date, a case in Allahabad which was brought to our special notice by the *Sudder* Commission as one which, although it did not fall within the cognizance of the commission, nevertheless seemed to require a remedy. It appeared to us, however, for the reasons which your Honourable Court will find recorded in our reply to the Commission, that no further measures could be adopted regarding it.

21. We now proceed to notice the general report of their proceedings in *Zillah* Cawnpore, furnished by the *Mofussil* Commission, which your Honourable Court will find recorded on our proceedings of the annexed date, as likewise the Minutes of the several members of the *Sudder* Special Commission on a consideration of that report, and our further correspondence with them relative to the expediency of extending the powers, or of adding to the number of the *Mofussil* Commissioners, and of amending their rules of practice, particularly as regards the adjustment of *putteedaree* and inferior rights, the whole of which documents, with our Resolutions thereon, are recorded on the proceedings of the date noted below.

22. We look upon the report of the *Mofussil* Special Commission to exhibit in the most clear and able manner the real nature and extent of the evils, for the correction of which the Commissions were established. The *Sudder* Commission, indeed, appear to think that this report does not exhibit so fully as might be desirable the practical results of the law, and the effect which its operation has had on the minds of the people whose interests have been affected by it. On this point, however, we would remark that, if in their report the members of the *Mofussil* Commission have not dilated so much on the practical effects of the law as their local experience might have enabled them to do, the circumstance may in some degree be attributed to the natural disinclination they would feel to enlarge on the benefits resulting from operations conducted so entirely by themselves. To our minds, however, the facts which the *Mofussil* Commissioners have placed on record, and which facts are corroborated in all essential points by a perusal of the reports of decided cases, afford the most ample and unequivocal proof that their proceedings have produced the desirable result of restoring to

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their hereditary rights and privileges a large body of your subjects, of which they had been deprived by the grossest fraud and chicanery on the part of the subordinate Native revenue officers, and by the erroneous conceptions in regard to the rights and interests of individuals on the part of the European officers, to whom the early administration of revenue affairs in the district of Cawnpore was entrusted.

23. Your Honourable Court have seen that at the period when the law was enacted it was strongly opposed by very high authority, on the grounds that the evils which it was designed to remedy had been greatly exaggerated, and that its operation would be extensively injurious to a large class of your subjects. The reasoning on which those conclusions, founded as they were upon most important information, were combated, has been laid fully before your Honourable Court, and you were informed that we had resolved to maintain the law, at the same time admitting its enactment to be a strong measure, justified only on grounds of urgent necessity. We have, however, no hesitation in confidently asserting, on the evidence of the proceedings which we now bring to your notice, that the nature and extent of the evils which had been represented to exist were not exaggerated, but, on the contrary, that as far as regards Cawnpore, and, we may add, Allahabad, they have been proved to have existed to an extent which most fully justifies the adoption of the measure resorted to for their correction.

24. We may further assert, with equal confidence, that the results of that measure have proved extensively beneficial in the District of Cawnpore, and that these results have been attained without being attended in any material degree with the evils which it was anticipated would be experienced from the practical operation of the extensive powers vested in the *Sudder* and *Mofussil* Special Commissions.

25. A vast number of the most valuable class of your subjects have been restored to hereditary rights, of which they had been unjustly deprived by the errors into which your European functionaries had been led by the fraudulent and iniquitous combination of their inferior officers. An attentive perusal of the reports will

satisfy your Honourable Court that the individuals who have been deprived, by the decisions of the Commissions, of estates held by them, had for the most part acquired possession directly or indirectly by fraudulent means, and therefore were entitled to little or no consideration. To all those dispossessed who have reasonable claims to compensation, it has been liberally awarded, and maintaining, as we have done, the strictest watch over the operations of the Commissioners, we feel satisfied that if any cases have occurred in which the law has operated with unnecessary hardship to individuals, they must in their number and nature be so inconsiderable as not for a moment to be placed in competition with the benefits which have accrued to the people. We must at the same time state that no such cases have fallen under our observation.

26 But though two members of the *Sudder* Commission have considered the report of the *Mofussil* Commission as less full and satisfactory than might have been expected, it will doubtless be gratifying to your Honourable Court to observe the general concurrence of their opinions as to the practical benefits which have attended the operation of the Regulation.

27 We are indeed fully satisfied that the *Mofussil* Special Commissioners have exerted themselves to complete the duty assigned to them with all proper dispatch, and with reference to the extent of their labours in the District of Cawnpore, it is right that we should notice an error into which the *Sudder* Commission were inadvertently led in assuming that the number of cases decided by the *Mofussil* Commission, while in that district, amounted only to eight in each month. This mistake will be found fully explained in our subsequent proceedings of the annexed date, from which your Honourable Court will observe, that the number of cases decided monthly, on an investigation of their merits, while the Commission sat at Cawnpore, amounts on an average to 14.

28 Allowing, however, full credit for the zeal and exertion evinced by the *Mofussil* Commissioners, we have to regret that the progress made by them has not equalled our expectations, and, notwithstanding that the members of the *Sudder* Special Commission have expressed a difference of opinion as to the expediency of re-est-

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ing the power of passing judgment in a single member of the Commission, we considered the benefit to be derived from the tribunals so much to depend on the celerity with which they can afford redress, as to render it of paramount importance that the decision of cases brought before them should be expedited as much as possible, consistent with a due investigation into the claims of the parties concerned.

29. For the attainment of the above object we have deemed it expedient to enact the provisions of Regulation IV., 1826, by which, under certain restrictions, the members of the *Sudder* and *Mofussil* Special Commissions are empowered respectively to hear and determine cases, sitting singly. For more detailed information as to the grounds on which this measure has been adopted, we beg permission to refer your Honourable Court to our Resolutions of the 13th April, 1826, already noticed, and to our further proceedings of the annexed date.

30. We are decidedly favourable to the proposition of appointing an additional member to the *Mofussil* Commission; and if the other exigencies of the service admitted of our selecting an officer duly qualified for the duty, we should at once have adopted the measure, in order that the operation of the law might be extended without further delay to the District of Goruckpore, in which we have reason to think the number of cases requiring redress is as large as in Cawnpore or Allahabad. We have, however, been compelled by the limited number of public officers disposable for extraordinary duties, to defer, for the present, the adoption of any special arrangement for that district, or for generally adding to the number of members in the *Mofussil* Commission.

31. We now proceed to notice some points discussed in the report of the *Mofussil* Special Commission, and in the minutes of the members of the *Sudder* Commission.

32. The most important of these relates to the adjustment of the claims of *putteedars* or co-sharers, in cases decided by the *Mofussil* Commission.

33. The reports and correspondence to which we have referred your Honourable Court in this address, leave hardly any room to

doubt that the constitution of the village communities has been extensively affected and broken asunder by the operation of the public sales which have been annulled by the decisions of the Commissions, the evil, therefore, done to the community at large in any village so situated, would be but very imperfectly redressed by the mere restoration of the former *malgoosars*, who, if the extent of their individual rights remained unrecorded, would, in all probability, attempt to exclude the non-recorded proprietors so that the mere restoration of the former recorded *malgoosars* would not only fail to secure to the general body the recovery of their legal rights, but would leave open a door for endless dispute and litigation. It was clearly, therefore, of importance that the definition of the rights of all the parceners in such estates should, if possible, accompany, or at all events should closely follow upon, the reversal of the sale.

34 The attention of the *Mofussil* Commission was therefore more especially directed to the provisions of the fifth Clause, as well as to those of the 7th Clause of Section 3, Regulation I, 1821, in order that when any persons might claim the benefit of the rules in question (whether in possession or not), they should endeavour, as far as practicable, to include in their judgment all claims relating to the same *mehal*, so as to prevent further litigation.

35 But in regard to parties not in possession, and who preferred no claim to the Commissioners, their active interference could hardly be required, and as to persons in possession who might not seek their interference, the adjustment of their rights might very well be left to the Revenue Officers, under the provisions of Regulation VII, 1822, unless any difficulty occurred in carrying into complete execution the decree passed in favour of the original *malgoosar*.

36. As, however, many cases might probably arise in which the claims of the parceners would be found more than ordinarily intricate, and their final adjustment impracticable without a local inquiry, we thought it better, instead of laying down any positive rule for the guidance of the Commissioners, to leave the manner and time of adjusting such claims to their discretion, with the intimation of our desire that when they might find it practicable to settle the rights of

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all parties without any material delay in affording redress to such as are chiefly interested, they should in their decree provide for the adjustment of all claims ; and that in other cases in which the evils of postponing their decision of the suit regarding the sale might preponderate over the benefit of effecting at once a general adjustment of claims, they should proceed forthwith to decide the suit, leaving the relative rights of the original *malgoozars*, and those claiming as parceners, for an early future inquiry.

37. The other general rules of practice for regulating the proceedings of the Commissions, which have from time to time been submitted for our approval by the *Sudder* Special Commission will be found recorded on our proceedings of the annexed dates ; they relate chiefly to points of detail, with which we deem it unnecessary to occupy the time and attention of your Honourable Court in this address.

38. In a preceding part of this dispatch, we had occasion to state to your Honourable Court, that, in directing a local inquiry into the circumstances of the two cases in Cawnpore in which the *Sudder* Commission had, on our suggestion, resolved to revise the decisions passed by them in the first instance, the *Mofussil* Special Commission were at the same time instructed to enquire and report fully on the nature and extent of the interest possessed by the class of individuals who were styled *mocuddums* in that district. We have already noticed the result of that inquiry as it regards the two cases in question. As a general point we have only to add, that the facts stated in the report of the *Mofussil* Special Commission (although they satisfactorily prove that a *mocuddum*, when so properly designated, is only the manager or headman of a body of cultivators) are still quite conclusive as to the term *mocuddum* having been fraudulently applied to the village *maliks*, and erroneously introduced into a vast number of cases into our revenue records at the first settlement, as designating the holders of an inferior tenure, when in fact the persons to whom it was so applied were those, who, according to the opinion of proprietary right then current and recognized in the Regulations, ought to have been called “ proprietors,” and admitted to engage direct for the Government revenue.

39. The whole body of information indeed furnished in that report in regard to the denominations used by the people to express different interests, evinces in the strongest manner the necessity, in investigating the titles of claimants to landed tenures, of regarding rather the evidence in each case to the rights actually possessed, than the mere designation, whether *zemindar* or *mocuddum*, which may therefore have been used in the Revenue records.

40. With regard to public sales of estates for the recovery of arrears of revenue, which have been so fruitful a source of the evils which the *Mofussil* Commission have had to remedy, we need only mention that recourse is now seldom had to this process in the Western Provinces, and that both there and in the Central Provinces we have prohibited the confirmation of any sales without our previous sanction.

41. The information and suggestions contained in the *Mofussil* Commissioner's report, on the subject of the office of *Canoongo*, deserves, and has received, our serious consideration ; and this part of their report has been communicated to the several Revenue Boards and the Committee of Records, in order that the information furnished in it might be duly considered by those authorities, when they submit the general report on the office of *Canoongo*, which had been required from them. We hope shortly to be able to lay before your Honourable Court a full exposition of our views and sentiments on this subject in a separate address.

42. As the whole of the proceedings which we now bring to your notice will, doubtless, engage the early and particular attention of your Honourable Court, we consider it superfluous to swell the present despatch by dwelling on the other points noticed in the Reports and Minutes of the Commissioners. For more full information, we beg permission to refer your Honourable Court to the Proceedings and to our Resolutions recorded on them.

43. On our Proceedings of the annexed dates, your Honourable Court will find recorded our correspondence with the *Sudder* Special Commission on various questions of jurisdiction and construction of different clauses in Regulations I. of 1821, and I. of 1823, which

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have not been particularly noticed above. The orders passed by us on each reference will evince that we have generally seen reason to concur in the opinions expressed by the *Sudder* Special Commission; but as the points discussed in this correspondence are important in themselves only as matters of detail in regulating the operations of these special tribunals, we consider it sufficient merely to bring them to the notice of your Honourable Court, without entering into a lengthened explanation regarding them.

44. Your Honourable Court will observe, on reference to the proceedings of the annexed 'dates, that we have from time to time extended the jurisdiction of the *Mofussil* Commission in the Districts of Cawnpore and Allahabad for such periods, and with such restrictions in regard to the former district, as appeared necessary.

45. On our proceedings, of the dates noticed below, is recorded our correspondence with the *Sudder* Commission and the Board of Revenue in the Central Provinces, on the subject of the assistance to be afforded by the several Revenue and Judicial officers in facilitating the inquiries of the *Mofussil* Special Commission, when the latter might have occasion to apply to them for information, or the records of their respective offices. We have no doubt that the orders which have been issued by us on this subject will secure due attention in future to all the requisitions of the Commissioners.

46. During the period to which the present narrative of our correspondence with the *Sudder* Special Commission extends, only one claim for compensation to any large amount has been submitted to us. It has been made by a person of some respectability, named Nawab Mahomed Hosein Ally Khan, who is distantly connected with the King of Oudh: the particulars of this claim will be found recorded on our proceedings noted below. Strictly speaking, we do not consider the Nawab, under the circumstances of his case, to possess any claim of right to the compensation he has applied for, but we concur generally in the opinion expressed by the *Sudder* Commission, that his case is entitled to indulgent consideration if it shall ultimately appear that he cannot recover from the parties from whom he purchased, and upon whom his claim to be reimbursed the amount paid to them for the estates of which he has been dispos-

essed, appears undeniable. The question is however, as your Honourable Court will perceive, still undecided, pending a reference to our Resident at the Court of Oudh, and we shall therefore defer further notice of it until we are enabled to report our final determination regarding it.

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47 On our proceedings of the annexed dates, your Honourable Court will find recorded the several appointments of Messrs Pattlo, Ross, and H Shakespear, to be members of the *Sudder* Special Commission, and Mr G Ward, to be junior member of the *Mofussil* Commission. Under the circumstances contained in the representation received by us from the latter gentleman, whose zealous and able services we have had occasion so frequently to bring under the notice of your Honourable Court, we resolved to fix the salary of the members of the *Mofussil* Commission at the sum of Turruckabad rupees 42,000 per annum, from the 1st March, 1826.

48 From our proceedings of the annexed dates, your Honourable Court will perceive that we have sanctioned the disbursement of rupees 4,581-4-10 for the construction of an office bungalow at Allahabad, for the use of the *Mofussil* Special Commission, as well as of the further sum of Turruckabad rupees 692-15-6, for certain additions which it was necessary to make to that building.

49 We have likewise authorized the *Sudder* Special Commission to entertain the revised establishment proposed by them at an expense of 547 rupees per mensem, being an increase of 46 rupees per mensem on their former establishment.

50 We have also, in compliance with an application from the *Mofussil* Special Commission, authorized them to purchase an additional tent, and directed that they should be furnished with the means of conveyance for the camp equipage, and a guard from the corps of Gardner's Horse, whenever the other exigencies of the public service may admit of it.

We have, &c ,

(Signed)

COMBERMERE

J H HARRINGTON.

W. B BAYLEY

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NOTE ON THE PROCEEDINGS OF THE GOVERNMENT OF *BENGAL*,
RESPECTING THE ENACTMENT OF REGULATION I. OF 1821,
APPOINTING SPECIAL COMMISSIONS IN THE CEDED AND
CONQUERED PROVINCES, FOR THE REDRESS OF GRIEVANCES
CAUSED BY THE ILLEGAL AND WRONGFUL TRANSFER OF
LANDS BY PUBLIC SALE, FOR THE RECOVERY OF THE LAND
REVENUE, &c.

THE attention of the Bengal Government was forcibly called by Mr. T. C. Robertson, the Judge and Magistrate of Cawnpore, 9th September, 1820, to the demoralizing effects produced by the sale of *zemindary* tenures for the recovery of the revenue demands of Government. Mr. Robertson stated, that from his long acquaintance with the people of Cawnpore, and his experience of the practice of our Civil Courts, he could venture to assure Government that, if the system should be persevered in, the business of the courts must increase beyond the powers of the Judges; and thence, as consequential evils, great increase of crime, additional police establishments, and an augmented expense, must necessarily be expected. On the other hand, he felt very little hesitation in asserting that, were the landed tenures to be placed on a proper footing, and due precaution taken against further aggression, one-third at least of our police and judicial establishments might be reduced.

It may be useful in this place to observe, that the late Sir Thomas Munro, in a Minute recorded by him on the 22nd January, 1821, in view to the improvement of the Revenue system of the Madras Provinces, fully supports the opinion expressed by Mr. Robertson. Sir Thomas Munro states that, "we should form a very erroneous judgment of the important influence of the office of Collector, if we supposed that it was limited merely to Revenue matters, instead of extending to every thing affecting the welfare of the people. In India, whoever regulates the assessment of the land, really holds in his hand the mainspring of the peace of the country. An equal and moderate assessment has more effect in preventing litigation and crimes than all our civil and criminal Regulations. When the lands

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are accurately surveyed and registered, the numerous suits which occur where this is not the case, regarding their boundaries and possession, are prevented; and when the assessment is moderate, every man finds employment, and the thefts and robberies which are committed in consequence of the want of it, and of other means of subsistence, almost entirely cease. When the people are contented, those incorrigible offenders who live as banditti and make robbery a trade, find no protection or encouragement, and are gradually taken or expelled from the country. If we employ inexperienced Collectors: if our assessment is not only unequal, but in many places excessive: if we have no correct detailed accounts of the lands: litigation will increase every day, and all our courts will be inadequate to the adjustment of them. Nothing can so effectually lighten and diminish the business of the courts as a good settlement of the Revenue."

It may, however, be imagined that there is so much diversity between the Revenue tenures of Bengal and of Madras, as to render Sir Thomas Munro's high authority of little weight in the case under consideration. But it is to be remembered that wherever the Hindoo law of inheritance obtains, the sub-division of the land among a community* of proprietors who subsist by its cultivation, is a necessary consequence. On this point there can be no difference of opinion; and it is equally indisputable that, whether the persons who intervene between the Government and the village communities be denominated *zemindars* or *tahseeldars* (native Revenue officers removable at pleasure), the hereditary occupation of the land (for that under an Indian assessment is too generally the proprietor's only privilege) is vested in the *ryots*, who trace a common origin to the first settlers

* The late Major Williams, who surveyed the District of Broach under the Bombay Presidency, states in his Report, that the greater part of the villages are held on what is termed the *bhagwar* tenure, namely, in shares or *bhags*. These shares are of various magnitude, but the fields which belong to each *bhagdar* are scattered throughout the whole area of the village territory. In villages of this description the Collector fixes the amount of the assessment upon the whole of the lands; and the village community apportion the same amongst the sharers with reference to the soil and situation of the different patches of land composing each man's estate. Major Williams considers the *beegotee* tenure to be nearly similar to the *bhagwar*. The settlement of the *beegotee* villages is also made direct with the *patels* (heads of villages). The amount to be paid by the village is arranged with the *patel*, and the inferior distribution is made by the village community amongst themselves. The permanent cultivators have the same rights in the *beegotee* villages, as the *bhagdars*—great and small—have in the *bhagwar* villages. They cannot be ejected without violence and injustice, even by being outbid as to rent by other

in their respective villages, or have acquired by purchase the rights enjoyed by the original settlers

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Mr Robertson truly observes that, "there is so little affinity between our European ideas of property and those rights whereby land is held in India, that our language does not furnish a word capable of expressing those simple, yet curious, combinations of tenures," which, to avoid the misleading title of an estate, he denominates "village communities" "The first mistake that seems generally to be made, is that of regarding the *lumberdar*, or person engaging for the payment of the Revenue, as the exclusive proprietor of the soil, instead of considering him as the mere representative of the village community, or, in other words, sacrificing rights of occupancy in an attempt to establish actual property in the soil "

It would be found from the registers kept by the *putwaries* (village accountants) that the *thakoors* (or heads of villages) held privileged (denominated *seer*) lands, and that a *ryot* of the *thakoors*, or chieftain's kindred, will, even beyond the limits of the *seer* lands, enjoy, under a contribution equivalent to one rupee, what a person of inferior order pays two for, and thus, through a number of gradations, the whole land is parcelled out, under various terms and conditions, in a manner that, to those who put faith in the existence of a Hindoostance* landlord, must seem, and generally is, totally unintelligible Each holder of *seer* land of course collects what is due from the *ryots* whose fields are annexed to his division and were these collections regulated, according to ancient custom, by certain rules having reference to the proportion of the crops, and operating as a defence to the labour

cultivators The principal difference between the *bhagwar* and *beegotee* tenures is that the holding of the former consists of certain fixed shares and the latter of a certain number of *beegahs* of land It however appears that the hereditary proprietors or cultivators have a right annually to interchange their lands

In the southern parts of the peninsula the lands were also held on the joint

the survey assessment made by Colonel Reid in 1790-93 Sir Thomas Munro did not allude to the *zeindarees* formed in 1803 because the latter are merely saleable portions of the Government Revenue

* Meaning the *emdar*

ing community, nothing, in Mr. Robertson's opinion, would be easier than for Government to bring the joint gatherings to a head, and realize, without changing in any way, the internal contribution of the village.

Mr. Robertson observes, that "it is impossible to glance at a *putwarree's* papers without discerning proofs of the original non-existence of any one man possessing the whole village as an exclusive landlord." Among the records of the village of Mohsunpore, contiguous to the station of Cawnpore, he found the following entries of land exempted from the payment of Revenue :—

					<i>Beggahs.</i>
<i>Baghat</i> , or garden-land,	...	...	...	...	175
Tank-land,	...	...	...	...	70
Grazing land,	...	...	...	...	24·17.
Site of houses,	...	...	...	...	200
<i>Ghat</i>, ...	...	...	...	...	4

The property in this land "must be considered to have originally existed in that quarter whence the donation emanated, and now to reside with those to whom the profits at present accrue, namely the village community. The persons whom it is now endeavoured to make landlords of never could have acquired such valuable immunities to themselves, neither was it in their power, without some official confirmation, to confer them upon others ; and certainly had they enjoyed, they never would so disinterestedly have exercised, so very profitable a discretion. On the contrary, at present one of the most frequent sources of contention is the invasion of those very privileges by the newly-created *zemindars*, who have all a propensity to cutting down mangoe *topes* (plantations), and appropriating to themselves tanks, wells, and grazing lands, annihilating by every means in their power this last vestige of those common possessions, upon the ruin of which their own new and exclusive right of property is built."

Mr. Robertson justly remarks, that "the exemption from payment of a higher rent, on the ground of alliance to one of the heads of the village, must by the new authority be one of the first privileges to be disregarded ; and the pride of many a Rajpoot be hurt by finding himself stripped on a sudden of what had before given him consequence and distinction."

“ The gardens and orchards reared by themselves or their forefathers, are by all Natives regarded with a peculiar veneration and affection, as not only affording food and comfort, but constituting the great ornament of the country. Yet, on the introduction of a stranger, this, their last possession, to which they cling with a fondness that can scarcely be conceived by some who would eradicate, not only the trees, but those by whom they were planted, is, after a severe struggle, generally wrested from them. The common which their cattle used to graze is next ploughed up. The tank is then rendered a sealed fountain, and even the well, which was constructed for the convenience of the public, does not always escape amid the rage for innovation and encroachment.”

Mr. Robertson observes, that “ it is a great error to suppose that the influence of the old village *mocuddums*, or chiefs, can ever be destroyed ; it exists even now, but, as was to be looked for, is directed to the promotion instead of the suppression of crimes. Hence arises another evil, the necessity for village *chowkeedars*—a class of people who make wretched police officers, and who interfere with, if not entirely derange, the old and once effective association of the village community.

“ The new *zemindar*, it must be observed, very seldom is so imprudent as to live within the village that he has acquired. He delegates the duty of collection to an agent, who, backed by the authority of Government, is able to realize the Revenue, and seize upon every thing visible and tangible. With the interior domestic economy of the village he dare not, however, for his life interfere ; and regardless of the character of each inhabitant, whose means of subsistence should be almost daily known to a person in his capacity, he possesses no influence but what the fear of the *darogah* inspires. Here, then, the magistrate finds himself in a distressing dilemma : if crimes prevail, and he calls the new *zemindar*, or his agent, to account, they reply that the old landholders and their connexions prevent them from knowing what is going on, and that without the expulsion of those people, they can do nothing in the way of police. If these old *zemindars* (meaning the heads of the villages) are called upon, their reply is obvious, “ You have stripped us of power, how can you burthen us with responsibility ?”

“ There is no other expedient left ; *chowkeedars* must be appointed for there must be one responsible at least in a village. The duty of a *chowkeedar* is one which none but the very lower classes can be brought to undertake ; yet when once established, the previously degraded class contrive, between the jealousies and contentions of the old and new parties, to acquire a most unnatural and pernicious degree of influence and power. By siding with the new, to depress, and, if possible, utterly ruin the old landholders, by entangling them in some *foujdaree* (criminal) cause, or, as frequently happens, by linking with the ruined and desperate among the former possessors, in a thieving confederacy, these wretches gradually become personages of considerable wealth and importance, and give a colour to the current saying, that “ this is a rule (the British) under which sweepers flourish.”

Mr. Robertson remarks, that “ the consequences of turning society topsy-turvy, and placing at the head those, who, but a few years ago, were at the very bottom, may easily be imagined.”

“ In whatever light, therefore, the question may be viewed, whether with reference to policy or justice, every thing tends to prove the necessity for the immediate interference of Government in behalf of the ejected landholders.”

Mr. Robertson proceeds to show that the Courts of Justice were unequal to the prevention and redress of the wrongs which had been done by illegal and fraudulent acts of the Revenue officers, and points out the necessity of confiding that most important duty to a Special Commission.

Mr. James Stuart, in a short Minute, dated 29th September, 1820, adverted to the opinions submitted to Government by Mr. Fortescue, while Judge and Magistrate of the *Zillah* of Allahabad, and by Mr. Mackenzie in his Memorandum on the Settlement of the Ceded and Conquered Provinces, in support of the institution of a special Commission for investigating and redressing the wrongs of the village proprietors. Mr. Stuart observes, that “ the delay which has occurred is unquestionably to be regretted ; but, in his opinion, that delay is not a sufficient ground for excluding the injured parties from redress. It is a noble principle of the English law, that no

time shall avail in favour of fraud, and he believed that there were never transactions to which the maxim was more justly applicable." He adds, "it would indeed be an afflicting reflection that men who have acquired estates by the basest means, should enjoy all the advantages of the limitation of the Government demand, while their victims should have their misery heightened by being the hopeless witnesses of the increasing value of the property of which they have been iniquitously despoiled."

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The Governor-General in Council concurring generally in the sentiments expressed in the above Minute, directed the Secretary in the Territorial Department to prepare and submit the draft of a Regulation for carrying into effect the proposed arrangements.

On the 27th February, 1821, the Governor-General in Council passed Resolutions giving effect to the provisions of Regulation I. of 1821, establishing *Mofussil* and *Sudder* Commissions. The *Mofussil*, or local Commission, consisting of an experienced Revenue officer and a Judicial officer of acknowledged talents. The *Sudder* Commission is merely a Court of appeal and revision. This Commission consists of two members of the *Sudder Dewanny Adawlut* and one member of the Board of Revenue at Calcutta.

It appears from the preamble to Regulation I of 1821, that the Government admitted to the fullest extent the evils produced by the mal administration of the Land Revenues, and that they armed the authorities entrusted with the delicate duty of investigating and redressing the wrongs alleged to have been committed, with ample powers.

When the new Regulation was officially announced to the members of the *Sudder Dewanny Adawlut*, the Judges felt it to be their duty to submit to Government the draft of a Regulation for the purpose of repealing Regulation I of 1821. In the Minutes recorded by the several members of the *Sudder Adawlut*, the reasons which induced them to take this step are fully detailed. Among other grounds of objection to the new law, it was urged by the senior member, Mr. Leicester, that the evils which it was intended to remedy by a Special Commission, could be redressed by the ordinary tribunals and by the existing laws.

The second member, Mr. Courtenay Smith, entirely concurred with Mr. Leycester in thinking that the Regulation ought to be rescinded. He considered it as “a most extraordinary *ex post facto* law (not only *ex post facto* in itself, but giving an unlimited liberty of creating *ex post facto* laws), and that a most extraordinary tribunal had been established to redress highly exaggerated injuries, which might be better investigated by the regular tribunals of the country, without deviation from any law which was in force at the time the alleged oppressions took place. It was obvious,” in Mr. Smith’s opinion, “that complaints invited by those *who are to try them, by those who, in direct subversion of every acknowledged principle of jurisprudence, are, under the express authority of Government, to move about the country with a bitter printed invective against the persons who are in possession, and a high-wrought panegyric upon those who are eager to recover it, cannot be said to be fairly investigated. The Judge is not unbiassed, the parties are not upon an equal footing, the evidence brought forward under such circumstances can never be free from suspicion; the decree cannot now, or hereafter, be respected as the calm, well-weighed, and enlightened decision of an impartial and uninfluenced court.*” Mr. Smith observes, “It is almost useless to enter into a detailed consideration of the several sections of the Regulation. It is perfectly clear, that by a vigorous application of the clauses of Section 3, there is hardly any one description of proprietor or occupant in any one district of the Ceded and Conquered Provinces, whom the Commissioners may not at their pleasure divest of their property and reduce to ruin. By the fifth Section the Commissioners may annul the decisions of all the courts of Judicature, even those of the *Sudder Dewanny Adawlut*. This last power, besides its unreasonableness, its exorbitancy, the unmerited slur which it casts upon a large class of public functionaries, and the very doubtful policy of a Government proclaiming to the people the inefficiency and inutility of its own courts, at the same time that the Courts are continued with untouched authority in more than two-thirds of its territories,” Mr. Smith holds to be positively illegal. In conclusion, Mr. Smith observes, “I am anxious that the Regulation should be repealed, and that failing that, it should be known to the Court of Directors that the law was passed without the *Sudder Dewanny Adawlut* having been consulted, and that it was

no sooner published than the members of the Court, even those who have been selected for the Chief Commission, made no delay to submit to Government their decided dissent from its provisions, and proposing its repeal ”

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Both the third and officiating members of the *Sudder Dewanny Adawlut* concurred in recommending the repeal of Regulation I. of 1821, but as their objections to that law do not throw any new light upon the arguments urged by Mr Courtenay Smith, it is unnecessary to advert to them more particularly

The Governor-General in Council entered into a calm consideration of the proceedings of the *Sudder Dewanny Adawlut*. Though it was regretted that the Court had not entered on a more deliberate inquiry into the facts of the case than they would appear to have instituted, yet His Lordship in Council could not but applaud the freedom with which they urged their objections. After stating the authorities on which the nature and extent of the fraudulent sales of land for the recovery of arrears mainly rested, the Resolution of Government observes, “those representations cannot be shaken by the mere denial of the *Sudder Dewanny Adawlut*, even if this were more confidently pronounced, and when it is recollected that during the first settlements, the rate of every man’s assessment was for the most part fixed on the report of the *tehseldars*, that on several occasions lands were sold for arrears due by the mere farmers of revenue, that in various instances extensive estates were disposed of for a mere trifle, that the purchases of the *tehseldars* themselves or of their dependents, were very numerous, embracing, it is stated, almost every estate in Allahabad that was brought to sale previous to the year 1808, and in a multitude of cases fraudulent and iniquitous, that the existence of the arrears which led to the sales was mainly attributable to the Government demand being raised beyond what the country could contribute, that the settlement was made without any attempt to adjust the relative rights of the *sudder mal-goozar** and the under-tenants, that they were thus left to those disputes which are so fertile a source of arrears, and exposed to the summary process of the law long before they could be expected to

* This term is used to denote the person who entered into direct engagements with the Government officer

bring into operation those provisions which might have saved them from default, and that they were generally new to our Government and ignorant of our system. But when to this is added the solemn declaration of the Board of Commissioners" (Revenue Board) in the Western Provinces, "that all *putteedaree* rights have been annihilated in all estates which have been transferred by public or private sale, the evil in its influence on the great body of the agricultural community, and the most valuable part of our native subjects (the village *zemindars*), must be regarded as one of the most serious and extensive that any government was ever called upon to correct.

"Many private transfers were effected under circumstances leading irresistibly to the conclusion that they had been attended with great injury to the persons whose properties were affected; and the principle adopted by the Revenue Board, of maintaining the right of the person who had once been admitted to engage as *zemindar* to be considered as the sole proprietor, with the power of singly selling or mortgaging the *mehal* (estate or village) for which he engaged, in spite of the claims of the other *putteedars*, was calculated greatly to add to the mischief."

After explaining the advantages which would be possessed by the Commission over the ordinary local tribunals in hearing and determining claims under the new Regulation, the Resolution proceeds to observe, that "the members of the *Sudder Dewanny Adawlut* have justly remarked, that a number of the cases with the cognizance of which the Commission is invested, would, under the general law, have been amenable to the ordinary Courts." But the real question is, "whether it was necessary to have a commission armed with powers beyond those possessed by the ordinary courts: and this is a question on which, with the evidence before Government, of the cruel injury done to the people through the indiscriminate authority vested in the Revenue authorities, and the great political importance of correcting that injury, as far as it may admit of remedy, His Lordship in Council cannot for a moment hesitate to decide in the affirmative."

"The measure is avowedly adopted on special grounds. It is justified only by special circumstances. Its adoption, therefore,

can afford no just reason for apprehending a similar interference on the part of Government, excepting under similar circumstances, and there is no more cause to think that the Regulation in question will destroy the confidence of the people in the stability of our laws, than that the temporary suspension of the Regulations, and the proclamation of martial law, in the case of internal commotion, would do so. The mischief has, indeed, fortunately stopped short of actual revolt that it would not ultimately have had this issue, who will assure us?

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“ It is further to be observed, that the objection presumes the previous existence of a system much more settled than the constitution of British India can yet pretend to be. The people know and feel, that the Government desires their good. They know and feel, that in its dealings with them it is just and even liberal. They know and feel, that what it has given it will not lightly or arbitrarily take away. On the good faith and benevolence of the Government, therefore, they implicitly rely, but they no less know and feel, that there is little or nothing of fixed law yet established. We profess, indeed, to be guided by Mahomedan and Hindoo law on matters of succession and caste, and to give authority to the Mahomedan law in criminal cases, unless where otherwise specially provided. But questions of inheritance and caste form but a small part of the business of our courts, and even in regard to these, especially in the case of Hindoos (the bulk of the population), the decision of our Judges, necessarily following the opinions of the law officers, are far from certain. Of the criminal code, it must be unnecessary to observe how little now rests on the authority of the Koran, and the power recently given, and wisely given, to the Judges of the *Nizamut** *Adawlut*, of altogether setting aside the *fatawas* (opinions) of their law officers, has rendered that little of uncertain operation. In regard to the great mass of judicial decisions, the people see well that they rest on the discretion of individual Judges, or, as they more frequently express themselves, on the fortune of the suitor. No man, indeed, can for a moment contemplate the effect of our institutions without perceiving that they are effecting, whether Government wills it or not, a great

* The *Sudder Adawlut* sitting in its criminal capacity

though generally salutary revolution ; that the effects produced are frequently quite unexpected ; and that hence must arise constant occasions for the interference of Government to meet the wants of the people, such as under a settled and complete system of law could not arise. It is in such a state of things that the measure under discussion has been adopted ; and the case being so, it is plainly preposterous to judge of that measure by rules and principles applicable to the practice of long-established governments and countries possessing a vast mass of law, the accumulated wisdom of ages, administered by Judges such as form the pride and the safety of our native country. Throughout the whole of the Minutes, this consideration is never once hinted at."

The Resolution observes, that the degree in which the faith of Government is pledged to the auction-purchasers, seems to be almost always much overrated in the Minutes. " It is perfectly well known to the auction-purchasers, that though the sale is made under the authority of Government or the Revenue Board, yet its validity depends on the regularity of the Collector's proceedings; and that if any doubt shall exist in regard to the justness of the demand, or if any flaw can be found in the forms observed, the Courts are authorized to oust them from their purchase, without their having any claim on Government beyond the restoration of the purchase-money. There is, therefore, nothing like a solemn pledge on the part of Government to maintain its sales, and it must have been apparent to every one that in resisting suits for the annulment of such sales, Government looks merely to the security of its Revenue without any consideration of the person who chanced to be the highest bidder, and purchased subject to all the contingencies to which public sales are liable.

" With respect to the alleged invasion of private rights, it is in the first place to be observed, that the rights in question are such only as have originated in the violent operation of our system, or in the acts of our officers. They are consequently of comparatively recent origin. To the people they bear the character of arbitrary creations of the Government; and they are in effect only a part of that unhappy revolution, which the too early introduction of our artificial system has produced in the country, and the progress of

which it is now so much an object of anxiety to stay. To interfere with rights so originating is little likely, therefore, to be regarded as an act of arbitrary violence. On the contrary, there is every reason to believe that it will be, and actually has been, hailed by the people as the mark of a benevolent watchfulness over their interests; and that they regard this interposition of Government to correct the evils of its own laws, as the surest pledge of the security of those ancient and prescriptive rights which they value so dearly, and the insecurity of which has hitherto been so serious a blot on the civil administration of the country. Besides, the Regulation distinctly providing that compensation shall be awarded in all cases in which persons may be deprived of rights or property vested in them under the existing code, there is really no room for the objection, any more than in other cases in which individuals are compelled to surrender their property for public purposes.

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“ To the general opinion, which the *Sudder Dewanny Adawlut* have expressed, that the institution of the Special Commission will occasion litigation and fraud, and that its decisions are likely to be erroneous, it might be sufficient to oppose the persuasion of Government that it is a tribunal far better calculated for the investigation of the cases in question, than any of the established Courts. That many claims will be urged to the Commission which would not otherwise be brought forward, is abundantly probable. The opening to seek redress has indeed been afforded with this very object; but the pursuit of justice is very different from litigiousness, and His Lordship in Council conceives that the Commission is so constituted as to afford, in its prompt and unincumbered proceedings, in the thoroughness of its research, in its free communication with the people without the intervention of established pleaders, in its systematic and unbroken inquiry, a security against that litigiousness and fraud to which the retainers of the *Adawluts* are so unfortunately prone, and with which all who frequent those tribunals are so readily imbued.

“ In proportion as the proceedings of the Collectors are erroneous, or as the errors committed by them are left uncorrected, so must the occasions of private dissension and ultimate litigation be multiplied; and though the evil may not immediately appear, be-

cause for a time a respect for ancient custom, or other considerations, may stay the encroachments and abuse almost necessarily consequent on such mistakes, yet, ultimately, the mischief will appear with a violence proportioned to the delay, and to the difficulty of applying a remedy.

“Such effects appear to be already exhibiting themselves in the District of Cawnpore, and the same consequences must inevitably follow in other quarters, unless the rights of the people are speedily and satisfactorily settled.

“Considering, indeed, the complex nature of the Village Communities in that part of the country, it seems certain that every instance of usurpation or wrong unchecked, must by a necessary consequence lead to endless disputes, overwhelming the Civil Courts with cases they cannot find time to decide, and bringing upon the Criminal tribunals all the consequences that naturally flow from such dissensions.”

With respect to the rights conferred by a Settlement on the person who is entered in the Revenue records as the engaging *malgoozar*, or *zemindar*, the Resolution observes, that “as yet the largest share of the net rent of the land is absorbed by the Government Revenue; that the advantages of the Government engager are comparatively limited, and the situation of the cultivating *zemindars** (*putteedars*) differs little in point of wealth from that of ordinary ryots. That, however, they value their property very dearly, is abundantly certain; and nothing could be more mistaken than to adopt the opposite belief.” In fact, the selection of the engaging parties was, in general, a matter purely discretionary with the *aumil* †; the being so selected implied the possession of no privileges inconsistent with the rights of the cultivating *zemindars*. It held out no advantages of a permanent nature, and in many

* This will always be the case so long as the assessment is regulated by the produce, or rather consists of a portion of the produce, which, on good land, is as high as one-half of the whole crop. A fixed moderate money assessment on the land would enable each proprietor to improve his share, and to create a landlord's rent independently of the Government tax. It is of no advantage to the ryots to limit the demand on the *zemindars*, unless the latter are restrained by the same principles of limitation in their demands from the ryots.

† The Native officer entrusted with the arrangement of the Settlement on the spot.

cases the *zemindars* (meaning the village sharers) "having enjoyed under the contract farmers the privilege of paying their Revenue in kind, were anxious to keep clear of a settlement with Government, under which that system could no longer prevail."

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The objections stated by the *Sudder Dewanny Adawlut* against the legality of the Regulation, are next fully considered and satisfactorily refuted.

The *Mofussil* Commission reported on the 17th December, 1821, that up to that date the number of suits preferred to them in the District of Cawnpore under Regulation I. of 1821, amounted to 776: of these 546 were admitted by the Commission. The number of suits disposed of from April, when the proceedings of the Commission commenced, was 178, leaving 368 depending.

The number of cases appealed to the *Sudder* Special Commission from the award of the *Mofussil* Commission, up to February, 1822, amounted to 36. Of those cases the *Sudder* Special Commission disposed of four, confirming three of the decisions of the *Mofussil* Commission, and reversing one. As this reversal, (Case No. 4,) only affected the decision of the *Mofussil* Commissioners partially, and gave rise to a full discussion of the principles which ought to regulate the amount of compensation awarded to persons holding lands illegally acquired at public sales, it may be convenient in this place to state the case at some length.

Jawahir Sing, the former *zemindar*,* or *malgoozar*, petitioned the *Mofussil* Commission for the restoration of his *zemindaree* rights of which he had been deprived by the *Tehseeldar*, Ram Mohun Ghose. In *Fuslee* 1213 (1806-7) the *Talook* of Sukroy was declared by the *Tehseeldar* to be in arrear, and on his report was ordered to be sold for the recovery of the Revenue. The *Talook* was accordingly sold, and privately purchased under a fictitious name by Ram Mohun Ghose, for rupees 960. In *Fuslee* 1223 (1816-17) Ram Mohun

Ghose transferred the *Talook* to Kunya Lall, for the sum of Rs. 4,114. The *Mofussil* and *Sudder* Commissions concurred in opinion as to the defective title by which the *Talook* of Sukroy was held by Kunya Lall, and as to the propriety of its being resumed. They, however, differed in regard to the amount of compensation to be awarded to Kunya Lall. The *Mofussil* Commission limited his claim to the sum originally paid to Government by Ram Mohun Ghose, while the *Sudder* Commission considered Kunya Lall entitled to the additional sum of Rs. 3,154 which he had paid to the former *Tehseeldar* in excess of the auction price paid by the latter. As this sum exceeded the amount which the Regulation I. of 1821, authorizes the *Sudder* Special Commission to award, without a previous reference to Government, the question was submitted for its determination.

The Governor-General in Council questioned the legality of Kunya Lall's claim to receive compensation from Government. "His purchase was clearly illegal, and the lands being liable to forfeiture," it appeared "doubtful how far he came within the scope of Clause 2, Section 4 of the Regulation," which empowers the Commission to afford compensation in cases "in which the title of any person, though invalid, may have been acquired by him *bonâ fide* under an express or implied assurance of its validity on the part of the Board, the Collector, or the Judge of the district." Under this view of the case, the *Sudder* Commission was instructed to reconsider Kunya Lall's claim.

The effect of this reference was a long discussion between the members of the Special Commission. The senior member, Mr. Leycester, submitted the draft of a reply to the above reference, in which it was stated that the claim of Kunya Lall was entitled to a liberal consideration, on the ground that he was not cognizant of, or concerned in, the original wrong.

The second member, Mr. Martin, objected, however, to this opinion, because he stated that it was proved in the proceedings of the *Mofussil* Commission that the claimant was privy to the original purchase at public auction by the *Tehseeldar*; that the funds requisite for defraying the expense of the purchase had been advanced

to the *Tehseeldar* by the banking house of which Kunya Lall was a partner; and that when Kunya Lall effected the purchase of *Talook* Sukroy in 1223, he must have been aware that the *Tehseeldar*, Ram Mohun Ghose, was the proprietor, and not the person whose name appeared in the deed of sale.

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The third member, Mr. Dorin, considered the forfeiture to have been properly made; but he was disposed to recommend that Government should take upon itself the responsibility of recovering from the former *Tehsee'dar*, Ram Mohun Ghose, the difference between the sum paid by him at the auction sale, and that received from Kunya Lall.

In deciding this case, the *Sudder* Special Commission stated that "in conformity with the opinions of the second and junior members, the decision of the *Mofussil* Special Commission was confirmed."

In the general report submitted to the *Sudder* Special Commission by the Commission in Cawnpore, dated 27th April, 1822, it is stated that the ousted proprietors came forward with great eagerness to avail themselves of the benefit of the Regulation; but owing to their ignorance of the arts and contrivances by which their lands had been wrested from them, and the length of time which had elapsed, the petitions presented to the Commission by the injured parties were obscure and defective in their statements. The attention of the Commission had been principally directed to public sales and private transfers of lands; and the result of their inquiries inclined them "decidedly to think that the account given in the preamble of Regulation I. of 1821, of the artifices and frauds on the part of the public officers, by which those sales and transfers were brought about, was strictly applicable. It fell to the lot of the Commission to disclose a system of complicated abuse, which, under the supineness of the local authorities, enabled certain individuals possessed of official influence to pervert to their own benefit, large remissions of public Revenue granted by Government in consequence of defalcations occasioned principally by their own misconduct; to arrest from the rightful owners, by means of public sale or private transfers, a large proportion of the most valuable estates in the district, and to defraud the Government of the public re-

sources, by procuring for themselves, in many instances, a deduction from the annual *jumma* (assessment) at which those estates were severally assessed. The first settlement was made in *Fuslee* 1210 (1803-4), and it did not appear that any balances accrued in that year, at all events the Commissioners had met with no sales. In the year 1211 there was a drought, of which advantage was taken by the public officers to commit the abuses in question. Government, with a view to alleviate the distress occasioned by the drought, authorized remissions and suspensions of Revenue to nearly one-sixth of the *jumma* of the district; but the distribution was left to the *Tehseeldars*, and they exercised their own discretion in varying it as suited their purposes, allowing to some estates four annas ($\frac{1}{4}$ th) per rupee; and others three annas ($\frac{3}{16}$ ths), two annas ($\frac{1}{8}$ th), one anna, or half an anna only. Moreover, in the year following, instead of making good to Government, as required by Clause 5, Section 2, Regulation XXVII. of 1803, all balances accruing within their respective jurisdictions, they contrived to be exonerated from the payment of such arrears as were reported by them to be outstanding in all estates of which they themselves had assumed the management, and for which arrears, although generally originating in their own oppressions and enbezzlements, the estates were eventually brought to sale, and purchased by the *Tehseeldars* themselves or their connexions, at a very inadequate price.”

When the Commissioners adverted to the imperfect state of the records connected with the *Pergunnahs** where the abuses in question prevailed, and contrasted those records with the correctness and regularity of the records of the *Pergunnahs* where there were no abuses, they could not doubt that “measures had been adopted to render the accounts unintelligible.”

In order to give some idea of the way in which the sales were effected, the Commissioners detail what was done in regard to *Mouzah* Kuppassee, (Case No. 319). This village, assessed at a *jumma* of Rs. 1,726, was sold by auction in *Fuslee* 1213, for a balance of Rs. 93, stated to be due on account of *Fuslee* 1211, and purchased by Nazir Ali, (principal *dewan* to the Collector), “in the name of Mahomed Dowlut, for the sum of Rs. 165. In *Fuslee* 1214, *Mouzah*

* Sub-Division of a Collectorate.

Ghostee, the proprietor of which had been security for Kuppassee, was likewise put up for sale for a balance of Rs. 735, stated to be due from the latter village, already sold on account of *Fuslee* 1212. Although during the whole of that year (*Fuslee* 1212) Kuppassee was under the management of the *Tehseeldar*, by whom the deficiency was *not* made good, the village of Ghostee was nevertheless sold for the alleged balance of Rs. 735, and purchased by a fictitious substitute of Kullub Ali, Nazir Ali's brother, for 20 rupees. This trifling sum was carried to the credit of Government, while the remaining sum of Rs. 715 was written off the public accounts on the ground of an application previously made to the *Tehseeldar*, in consequence of which the purchaser" (namely the *Tehseeldar*) "obtained an abatement of the whole sum."

After adducing numerous other instances of abuse, many of them still more flagrant than the case above stated, the Commissioners observed that they had discovered a description of fraud soon after the Cession, to which they had previously drawn the attention of the *Sudder* Special Commission, namely, the cases of error of record and recognition. "These errors were occasioned by the omission of the Collector to record at the first Settlement the motives which induced him, when the right of those with whom he entered into engagements remained unquestioned, to designate them by the term *mo-cuddum*, or by some other appellation implying that their title was inferior to that of *zemindar*. In fact the names *zemindar* and *mo-cuddum* appear to have been indiscriminately used, and of the facilities afforded by this circumstance, advantage was taken by natives possessed of official influence, to divest a very large number of landed proprietors of the possession of their paternal inheritance." It would rest with Government to arm the *Mofussil* Commission with authority to investigate abuses arising out of errors of record, as the *Sudder* Special Commission had decided that the Regulation I. of 1821, did not authorize them to entertain suits not originating in illegal sales and transfers through the instrumentality of a public officer.

The Commissioners observed, "that the great sacrifices of Revenue made by Government in *Fuslees* 1211 and 1212, for the general advantage of the country, instead of being extensively beneficial

towards alleviating distress, became productive, through the artifices and machinations of the public officers, of serious injury. The total amount given up for that benevolent purpose was Rs. 5,10,016; yet nearly one-fourth of the finest lands of the district passed into the hands of the public officers. Not content, however, with that extensive usurpation of private rights, though it was their express duty to prevent such abusive alienations, they further betrayed the confidence reposed in them, by procuring for themselves an abatement in the *jumma* assessed on the lands in question, by which Government, at the lowest estimate, had incurred ever since an annual loss of 50,000 rupees. This, however, in the eye of humanity, was a secondary consideration to the ruin and misery in which a considerable proportion of the people were plunged by those enormous abuses. To remedy so great a mass of injustice was an object clearly requiring the special interference of Government. It was loudly called for, not only by the people themselves, but by the local authorities, who found the law as it stood unable to reach the evil. All that zeal and ability could effect, was done, in the District of Cawnpore, by Mr. Robertson, the Judge; but constituted as the established Courts now are, it proved a hopeless undertaking." The *Mofussil* Commissioners "deemed it incumbent on them to bear testimony to the satisfaction with which Regulation I. of 1821 was generally regarded: a satisfaction not confined solely to the District of Cawnpore, but evinced by the frequent resort to the Commissioners of petitioners from distant parts of the Ceded and Conquered Provinces, in the hope of obtaining redress." The Commissioners add, "by laying open to the view of every one the means employed by the Native officers to attain their ends, the Regulation may be said to have vindicated the character of Government from the suspicion of conniving at their misconduct; and has disclosed, what was not before generally known, that Government itself was as much imposed upon as the people. It had likewise, it might be hoped, assisted to produce a conviction in the minds of official men, of the extensive mischief with which indiscriminate recourse to the expedient of selling lands for arrears of Revenue was inevitably attended."

In a number of the cases which had been decided by the *Mofussil* Special Commission in favour of the original *malgozars*, and which

had been appealed to the *Sudder Special Commission*, the decisions were reversed, on the ground that by the first Clause of Section 3, of Regulation I. of 1821, the Special Commissions were precluded from entertaining suits for illegal dispossession from lands, unless the same had been effected by the undue influence of a public officer within the period specified in that clause, although under the general Regulations the parties so dispossessed might recover possession by an action in the ordinary tribunals. The *Mofussil Special Commission*, on the 26th October, 1822, submitted to Government a correspondence between the *Sudder Special Commission* and themselves on this important subject. The *Sudder Commission* had justly stated that “undue influence must form the basis of every decree for reinstating the former owner and ousting the present possessor,” but the *Sudder Commission* could “not undertake to define in what undue influence consists.” This state of the question appeared to the *Mofussil Commission* to be very unsatisfactory. As the case then stood, it was impossible for them to conjecture the kind of evidence which the *Sudder Commission* would consider to be sufficient to establish undue influence. The lapse of time rendered it extremely difficult to obtain distinct evidence of the motive in which irregular and illegal sales and transfers of land originated. In that case it was necessary to judge of the motive by the illegality of the act; and, in the opinion of the *Mofussil Commission*, “unless undue influence and corrupt motives are to be presumed from the existence of gross irregularities, such as are cited in Clause 2, Section 3, Regulation I., of 1821, the annulment of an illegal sale becomes more difficult under that enactment than under the old code, and the Regulation might lead to the confirmation of many of those abusive alienations which the Regulation was intended to set aside.”

The Governor-General in Council recorded a Resolution stating that, in the opinion of Government, “the construction given by the *Sudder Commission* to the force and meaning of the words ‘undue influence,’ as used in Clause 1, Section 3, Regulation I. of 1821, would render many of the provisions of the Regulation nugatory,” and directed the Territorial Secretary to “prepare the draft of a Regulation to amend such parts of Regulation I. of 1821, as could be construed to bar the cognizance of suits to recover possession of land

illegally or wrongfully disposed of by public sale, excepting in cases wherein the sale shall have been effected by the undue influence of a public officer.”

The Regulation was accordingly prepared, and passed as Regulation I. of 1823, enlarging the powers of the Special Commissions, and authorizing the *Mofussil* Commission to re-hear and determine such cases as had been dismissed under the limited construction put upon Clause 1, Section 3, of Regulation I., of 1821; and the *Sudder* Special Commission was directed to be guided by the provisions of the new Regulation in determining cases brought before it in appeal from the *Mofussil* Commission.

The *Sudder* Special Commissioners submitted to Government on the 18th February, 1823, Minutes which they had severally recorded relative to the operation of Regulation I. of 1821.

The senior member, Mr. Leycester, stated that the progress of the Commission had confirmed his previous opinion that “no solid foundation existed for a measure which in itself and in its principle infringed deeply on the common rights of the people of India.” Mr. Leycester does not, however, define those rights which had been so unduly affected by the Regulation; but they may be inferred from his remarks on the report of the *Mofussil* Special Commission, dated 27th April, 1822, namely, that the alleged illegal transfers of land by public sale had generally conferred on the purchasers a legal tenure in the lands; for he “most decidedly considered the conclusions and representations of the *Mofussil* Commission to have been founded in errors.”

As the second member, Mr. Martin, concurred in opinion with Mr. Dorin, the third member, it may suffice to advert concisely to his Minute. Mr. Dorin observed that the majority of the cases which had been decided by the Commissions, consisting of irregular and illegal purchases by public officers or other persons, might have been remedied without the Commission, and at a cheaper rate. Other cases which the ordinary Courts might have remedied, had been taken out of the Courts, and brought before the Commission. Mr. Dorin admitted, however, that the Commission had been called upon to decide on a class of cases in which the ordinary Courts could not have

made any award in favour of the claimants, namely, persons unjustly excluded from the public registers as village proprietors. But in these cases, as far as he had seen, the Commission had been forced to decide rather by a preponderance of probabilities than by satisfactory evidence. The Commission "had been unable to judge whether such or such an estate had during the period since the sale (generally twelve or fourteen years) been a gaining or losing concern to the holder," and consequently in the compensations which had been awarded to the purchasers of the lands, the Commission had decided without sufficient data.

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Mr Dorin was of opinion that the generality of the sales had not "been made against the law, but under the law, *rather harshly put in force*." He observed that the *Tehseeldars*, on the acquisition of the Ceded Provinces, "were held responsible to Government for the full Revenue punctually (whether they realised it punctually themselves or not), and had to make good by borrowing what they did not realize in time. When the *Tehseeldars* applied for a sale for balances due to them, the authorities who had made them pay, could hardly refuse them the means of reimbursement." The system of farming the revenue to *Tehseeldars* was at the bottom of any hardships which the landholders might have suffered, and though the *Tehseeldars*, or their connexions, had taken advantage of that system to acquire lands, "probably," Mr Dorin remarked, "by undue means," yet he was satisfied, the evil had not been carried "*at all to the extent which was supposed*," as he had "not met with any cases which could be called *very gross or glaring instances of fraud*." The chief cases were those in which *Tehseeldars* had bought lands at the public sales in fictitious names, and therefore under circumstances of suspicion." But there never had been good proof adduced that the sales had been made on fictitious arrears. "Plenty of *putwarries* had come forward before the Commission with accounts purporting that no balance was due, in opposition to the *Tehseeldar's* accounts, *on the faith of which the sales had been made*," and the *Canoongoes* had sworn to the correctness of the representations of the *putwarries*. It however appeared, "that those same *Canoongoes* had at the time signed, as true, the accounts on which the sale proceeded, and after fifteen years they came to swear quite a contrary thing."

Much of the force which Mr. Dorin conceived attached to these remarks seems lost in the admission which he so amply makes in respect to the farming system. That system necessarily placed all the public officers of account, as well as of check, under the control of the *Tehseeldar*. Hence it was in the nature of the system to destroy effectually the utility of the *Canoongoe's* office, as a check on the *putwarry* accounts. The signature of false accounts is not therefore inconsistent with the oaths of the same persons to the truth of the accounts of old *putwarries*.

On the subject of the foregoing Minutes the *Sudder* Special Commissioners were reminded by Government, that they had stated on the 8th August, 1822, their intention to postpone the consideration of the *Mofussil* Commissioners' Report until that Commission had finished its duties in Cawnpore; and as the Minutes were not accompanied by any practical suggestions requiring a decision of Government, the Governor-General in Council withheld any observations on them until the *Sudder* Commission were enabled to submit a full and comprehensive report on the practical effects of Regulation I. of 1821. His Lordship attached a high value to the opinions of the *Sudder* Commissioners, and it was his anxious desire that their opinions should at all times be fully and freely stated, as well for the information of Government, as of the authorities at home.

The proceedings of the *Sudder* Special Commission, of a date subsequent to that of Regulation I. of 1823, display a remarkable change in the view which they take of the claims of parties to recover possession of lands sold for the liquidation of outstanding balances of Revenue. Instead of viewing the transactions of the Revenue authorities with any degree of favour, the *Sudder* Commissioners in several instances reversed the decisions of the *Mofussil* Commissioners, who had dismissed the claims on the ground that the auction-purchasers had been no parties to the irregularities of the *Tehseeldars*; the *Sudder* Commissioners in all such cases carefully tracing the irregularities to their sources, and indemnifying the purchasers for the loss of their tenures; and it is satisfactory to find that the Government in no instance saw reason to call into question the propriety of the decisions of the *Sudder* Commissioners. In two of the decisions (A. No. 12, and B. No. 17)

the *Sudder* Commissioners had drawn a distinction between the claims of parties designated by the terms "*mocuddum*, *malik*, and proprietor," and the Governor-General in Council requested the Commissioners to give some explanation of those terms, as the manner in which they were used did not afford "a sufficiently distinct notion of the nature and extent of the interests considered to belong to the parties "

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The *Sudder* Special Commissioners stated in reply that they had used the term "proprietor" in the sense in which they found it in the English abstracts of the *Mofussil* Commissioners, who had used it in every instance for the original term "*zemindar*." The *Mofussil* Commissioners had not used either the term "*malik*" or "*mocuddum*," in their English abstracts, in the case No 12, but in the case No 17, they had introduced the term *mocuddum* more than once, as denoting a tenure inferior to that of a *zemindar*. Mr Malony, the Secretary to the *Sudder* Commission, appeared to have "substituted the term '*malik*,' for the term *zemindar*, in the original Persian decrees in No 12, and in the case No 17, to have translated '*hak i zemindary*,' proprietary right. In both reports of the decrees of the *Sudder* Commission he had adopted the original word '*mocuddum*' as evidently intended to denote a term subordinate to the *zemindaree* estate claimed by the plaintiffs, and which not having been the subject of investigation in the trial of the *zemindaree* title, it was thought proper to declare the right of the *mocuddum* unaffected by the decision passed upon the *zemindary* title exclusively." With a view to "prevent any future misapprehension of the term 'proprietor,' or any other English designation of the holder of a local tenure of land, which may occur in the report of causes decided by the Commission, it seemed advisable that the established original designations of such tenures should be invariably adopted (with or without an English translation), and the *Sudder* Commissioners stated, that the necessary instructions for the purpose would be given to the *Mofussil* Commissioners, as well as to the Secretary of the *Sudder* Commission."

Upon this interesting question Government recorded a Resolution, in which they observed that the *Sudder* Commission had apparently decided the two cases "on the assumption that the *mocud-*

dumee tenure is necessarily distinct from, and subordinate to, that of the *zemindaree*. Such, undoubtedly, appears to have been the acceptance of the code of 1803, but Government had repeatedly had occasion to observe, that the Regulations of that year were framed with a very imperfect knowledge of the actual state of landed property; and there was evidence to show that the term *mocuddum* is equally applicable to the headman and representative of a body of *zemindars* possessing a clear heritable and transferable right of property in the soil, and subject only to the payment of their *quota* of the Government assessment and of the village expenses, as to the headman and representative of a body of cultivators claiming no transferable property, and paying, along with the Government Revenue, a *clear rent*, or *zemindaree russoom*, to one or more proprietors. In the former case, it was obvious that the *mocuddumee* tenure might be regarded as superior in degree, at least where the *mocuddum* was able to preserve among his fellows the superiority which appeared to have belonged by the custom of the country to the managing *malgoozar*, and to have secured any special emoluments of office. The *mocuddumee* tenure, in the above case, “stands to the *zemindaree* tenure in the relation of a director to any general body of proprietors whose affairs he may be chosen to represent, such director being himself also a proprietor, and as such drawing an income from his property distinct from the emoluments of his office, but eligible for that office in virtue of his proprietary character. There was reason to believe that the anxiety evinced by the people to claim the title of *zemindar* in preference to that of *mocuddum*, was to be traced to the peculiarities of our Revenue system, under which, unfortunately, names, rather than things, have been the object of record. The people naturally shape their pleas to meet the views exhibited by our Regulations, and the notions entertained by our officers. Although, therefore, it may be assumed that a person who, at the time of our acquiring the country, bore the designation of *mocuddum*, was certainly not alone the proprietor of the village which he managed in that capacity, it cannot safely be assumed that he held of any superior *zemindar*. He may have done so, representing merely the class of occupant cultivators, but he may also have been himself a sharer in the *zemindaree*, and the hereditary, or selected representative of a coparcenary of proprietors.

“In the Regulation Provinces a *mocuddum*,” who had obtained a lease of his village, and collected the Revenue from the Village Community in the same manner as would have been done by an officer directly employed by Government, “would probably sue under the title of *zemindar*, without intending to claim an exclusive property, or to deny the rights of his coparceners, unless where the term *lumberdar* had been introduced to designate the peculiar tenure of a proprietary manager.” But the Special Commission would not lay stress on any technical irregularity in the pleading, it being their peculiar province to correct any errors of record where any might have occurred, “and specially to afford relief in cases wherein parties may have suffered by an erroneous recognition of property, which the Revenue authorities held binding on themselves, and for which the Courts did not apparently afford any sufficient means of correction. In cases of the nature in question, it appeared to be indispensably necessary to enter into a minute investigation of the actual nature of the interests possessed by the several parties, the point at issue being namely, which possess such a right of property in the soil, and in the produce of it, as to entitle them to the benefits of engagements with Government? It would therefore have been satisfactory to Government to have learnt that some inquiry (by preference a local inquiry), had been instituted, to ascertain how and where the occupancy of the different parties had commenced; who, and of what class, are the cultivators of the village; what the origin and descent of the claimants, and the basis of their alleged title; how far their allegations are borne out by a reference to the general body of the Village Community, and of the neighbourhood; whether either of them received any *zemindaree russooms* from the cultivators or residents when the village was under *kham tehsel*,” (the Revenues collected in gross); “or held, or granted *lakhiraji* (free of Revenue) land; or planted gardens; or disposed of waste; or otherwise exercised any privilege; or received any perquisite indicating the possession of a right of property, and of what kind; in short, the point at issue being chiefly whether the *sudder malgoosar* was rightly admitted to engage? The occupancy of other parties, in some character or other, being admitted, it was essential that the real extent and nature of the interests possessed by them should be, as far as practicable, elucidated, and especially that the nature of

the *mocuddumee* tenure, supposed to be vested in the plaintiff, should be ascertained." The senior and second members of the *Sudder* Commission had stated, that "the cases hitherto brought before them did not enable them to define, with any exactness, the nature and extent of the interests generally considered to belong to the *mocuddumee* tenure in the District of Cawnpore." The Governor-General in Council apprehended that in every case where the nature of the *mocuddumee* tenure was doubtful, the tenure of the *zemindar*, whose interest in the *mehal* (estate) must be restricted by the rights possessed by the *mocuddum*, must be equally undefined; and that, "notwithstanding the caution used by the *Sudder* Commission, their decisions might lead to serious misapprehension and error, by giving an artificial force to the terms *zemindar* and *mocuddum*; and the *Sudder* Commissioners were therefore desired to revise their judgments in the cases in question, after calling for such further evidence as might appear necessary."

The *Mofussil* Special Commission, in their report, dated 1st July, 1825, on the effects of Regulation I. of 1821, in the District of Cawnpore observed, that the rights of all parties claiming an interest in the soil had been seriously affected by the political events which preceded the acquisition of the country by the British Government. The different Native Governments which rose on the decline of the Mogul Empire were only actuated by a desire to increase their revenues; and no importance was attached by them "to the title under which individuals contracted for the discharge of the public demand. Those contracts were renewed annually; and so little regard was paid by the local authorities to designation, that in many cases the identical individuals who were denominated *zemindars* one year, are recorded *mocuddums* of the same estate in another; sometimes they are found under both designations in the same year; and sometimes the names of persons recorded as in possession appear without any denomination at all. The village *maliks*, the most valuable part of the population, or, to speak more clearly, the heads of the agricultural communities located in the different villages," nevertheless "appear, up to the acquisition of the country by our Government, to have remained undisturbed during that unsettled period."

"The *Chowdries* and *Canoongoes* in the different *Pergunnahs*, as well as other individuals, succeeded in obtaining, in various ways, the superintendence of large *Talooks* consisting of numerous villages, for the revenues of which they became responsible." These persons, anxious to increase their possessions, followed the example of their rulers, and extorted from their weaker neighbours assignments of property which the latter, in hope of personal protection, acceded to, and were contented to retain a footing in their villages, even under a subordinate denomination. It will however be found, that it is only in the hereditary lands the *Talookdar* retains direct management, and the other portions of the *Talook* will generally be found to remain in the occupation of the descendants of the original proprietors. These parties could not be considered *mocuddums* in the common acceptance of the term, notwithstanding the similarity of their condition with that of ordinary cultivators, for many of them "are of high caste, which real *mocuddums* are not."

"Towards the close of the reign of the Nawab Vizier, the continuation of large *Talooks* was discouraged by Almas Ali Khan, who, in many instances, re-admitted the village *maliks* to direct engagements, but it does not appear that, on becoming again directly responsible to the State, the title under which they were recorded was considered by them of the smallest importance." They were therefore recorded sometimes under one designation, sometimes another, "and not unfrequently retained the title of *mocuddum*," which had been applied to them when their villages were included in the large *Talooks*.

The *Canoongoes* of Cawnpore agreed in stating, that "the *mocuddum* is subordinate to the *zemindar*, is exclusively paid by him for the performance of certain duties connected with the village management, is appointed by him originally, and removable for alleged misconduct" but the "*Canoongoes* qualified this statement by declaring that a *mocuddum* cannot be dismissed from his situation, nor his allowances of land or money resumed on any pretext. In fact," the Commissioners observe, "where the office still exists, it is almost uniformly found to have descended in the same family." The Commissioners were, however, of opinion, "that the *mocuddums* must be considered in some degree dependent on their

employers, and in case of sale for arrears of Revenue, the officer is liable to be immediately superseded." This, the Commissioners state, had frequently been done under the powers conferred on the engaging *malgoozars* by Regulation V. of 1812; and they had repeatedly found (more frequently in Allahabad than in Cawnpore) "that in cases of private transfer, the original proprietors stipulated to be employed by the purchaser in the superintendence of the cultivation, received the name of *mocuddum*, and were remunerated by the new proprietor either in money or kind."

The following remarks of the *Mofussil* Commissioners clearly establish the correctness of the opinion expressed by Government, that the change in the character of the office of *mocuddum* was the effect of our Regulations and system of Revenue management. The Commissioners observe, "although the term (*mocuddum*) in its common acceptation and indeed, by the Regulations, is considered to denote individuals *subordinate to the proprietor*, yet in its literal signification it means *chief or head*; and may therefore, perhaps, have been applied in some parts of the country to the managing proprietors, to distinguish them from the other members of the coparcenary. In *Pergunnah* Beesulpore, in the District of Bareilly, the term *zemindar* is not in use, and the whole of the villages are in the hands of *mocuddums*, who from time immemorial have enjoyed the perquisites and exercised all the privileges denoting the retention of proprietary right." But the Commissioners could not divest themselves of the prepossessed opinion by which they were evidently influenced, that the *mocuddumee* office proceeded from, and was subordinate to, the superior authority of *Talookdars*, or *Pergunnah zemindars*, who had disappeared from the portion of Bareilly above mentioned. They remark that the term "*zemindar*" is used in deeds and law proceedings, "to designate 'proprietor'; but 'landholder' was the only meaning which, in common with terms of similar import, it seems to have possessed with the former Government." The Commissioners, however, add, that the native powers only considered the *zemindar* an instrument for the realization of the Revenue, and that "it was not until the accession of the British Government, that any right in the soil was declared to be vested in the *zemindars*." They state further, that the native officers fraudulently combined, on our obtaining pos-

session of the country, to exclude the occupant proprietors from *zemindary* engagements ; and the village *maliks* (owners), in ignorance of those intrigues, " were satisfied with retaining possession of their villages : nor, accustomed as they had been to the little importance attached to titles by the old Government, could they have understood that, under the new one, a mere distinction of terms would, at a future period, be held sufficient to void inherent rights possessed by them immemorially."

The *Mofussil* Commissioners having recovered the accounts and records which were in the possession of the families of two of the former *canoongoes*, were enabled to trace satisfactorily the frauds and errors by which so extensive a mutation of rights had been occasioned. The result of their inquiries had satisfied the Commissioners that the Revenue accounts for at least half a century previous to the Cession, are of use only to prove possession, and not title. " Many persons," the Commissioners add, " were recorded at the period of the Cession under the designation of *mocuddum*," with fraudulent intentions on the part of the public officers ; but " the persons so designated in no respect correspond with the description given of *mocuddum*, in the common acceptance of the term."

Thus the *Mofussil* Commissioners at once adopt " the common acceptance of the term *mocuddum*," as a proof that no particular rights attach to the office, unless long possession can be shown, along with that term, to establish an interest in the soil. The Commissioners infer that the degree of consideration in which these *mocuddums*, who had been improperly designated by that term, were held by the Village Communities, would of itself be sufficient to distinguish them from the class of ordinary *mocuddums*, who, " in the common acceptance of the term," are merely the local agents of the *zemindars*, and as such are removable at pleasure. But the Commissioners do not pause to investigate whether " the common acceptance of the term" had not originated in the effects of a more grinding system of oppression on the part of the *zemindars* than they had been able to effect in those villages where the ancient landholders continued to possess an interest in the management. This, indeed, may be reasonably inferred (but the Commissioners draw no such inference) from the following description of the evils arising from the indiscrim-

inate sale of land for the recovery of the arrears of Revenue. The Commissioners say, “we deem it right to record what we know from personal observation and familar intercourse with the people, namely, that in most of the villages” so sold, “the dilapidated state of the houses, and the impoverished appearance of the inhabitants, loudly proclaim the rapacity of the purchasers ; but the villages of which the ancient proprietors have managed to retain possession often exhibit a very different aspect: and the Junior Commissioner, in his late deputation to Cawnpore, had occasion to remark the exultation with which the owners came forward to boast of the sacrifices they had submitted to rather than relinquish their paternal inheritance.”

It would have been very satisfactory had the Commissioners explained the causes which deprived the local occupants of the soil, in the villages purchased by speculating *malgoozars*, of the means of comfortable subsistence, with the view of showing whether, in point of fact, the villages in question did or did not originally belong to landholders of a description similar to those whom they found in the villages which had not been so fully exposed to the squeezing gripe of the engaging *malgoozar*. Had it appeared that similar rights did once exist, and had been destroyed, the fact would have shown that the whole difference between the two assumed classes of *mocuddum* was the natural effect of misrule, sanctioned by the force of terms inapplicable to the nature of the property and the state of society.

Nothing, however, has been better established than the universality of the Village Communities throughout India ; and the result of every inquiry into the causes which led to the decline of agriculture in particular Provinces, has traced much of the evil to the confiscation of the hereditary tenures annexed to the ministerial offices belonging to each village community. In the Madras territories the official lands have been restored ; and the only care which the Government takes is to secure the proper discharge of the duties for which those lands are the reward. But it is proper to state, that the *Mofussil* Commissioners were not prepared, at the period when their report was written, to offer any authoritative opinion upon the rights attached by the custom of the country to the heads of villages, as all their inquiries and decisions under Regulations I. of 1821, and I. of 1823, had been limited to the admission of persons to engage

with Government for the collection of its Revenue. The more important and delicate inquiry into the rights of other parties claiming an interest in the soil, with the view of defining and limiting the extent of the *zemindar's* demands on those parties, had in no instance been adjusted. The *Mofussil* Commissioners, indeed, state, that they had experienced inconvenience in determining the suits brought before them from the auction-purchasers having "not unfrequently bought over the *putteedars*" (coparceners), "in the hope of recovering considerable portions of the estate, after he had lost it through their instrumentality. It was also a common practice with the *putteedars*, in order to avoid expense, to keep aloof until the original claim" (namely, of the person entitled to be recorded as the engaging *zemindar*) "had been decided," both before the local Commissioners, and in appeal to the *Sudder* Commissioners, "and the original claimant, on his return from Calcutta, was not unfrequently assailed by a host of *putteedars*, who then insisted on participating in his success, without having shared in the responsibility. On the other hand, the original claimant sometimes kept back the *putteedars* while the suit was depending, by giving them written agreements for their respective shares, which, after the case had been decided in his favour, he denied having executed."

The *Mofussil* Commissioners proposed as a remedy, "that such *putteedars* as have no good reason to assign for not coming forward before the original claim be decided, or may be proved to have entered into collusion with the defendant, shall be disqualified, on either of those grounds *alone*, from recovering their rights through the medium of the Special Commission, and that written agreements between the original prosecutors and *putteedars*, executed previous to the decision of the suit, shall be declared invalid, unless publicly produced at the time of execution, or whilst the suit may be depending, and attested by the Commissioners."

The Commissioners add, "the total want of true religious or moral feeling, so glaringly manifested by all parties, whether plaintiffs, defendants, or witnesses, rendered it a matter of increasing necessity that every transaction should be recorded, and every right defined, for neither rights nor interests can otherwise ever become really valuable or permanent."

This report gave rise to a long discussion among the members of the *Sudder* Special Commission at Calcutta. The most important point treated of in the Minutes of the members of the *Sudder* Special Commission, was the adjustment of the rights of the *putteedars*, which, under Section 3, of Regulation I., of 1821, the *Mofussil* Commissioners were required to adjust. The *Sudder* Commissioners generally concurred in the propriety of rejecting the rule recommended by the *Mofussil* Commissioners, noticed above. They further agreed in opinion, that the rights of those parties, ought to be investigated and defined in the progress of the suit in each case ; and with that view prepared a new rule of practice, authorizing the *Mofussil* Commission, previously to passing its decree on the claim of an ousted *zemindar*, “to make such inquiry in regard to the rights of all persons having an interest in the *zemindary* lands, as may be necessary to enable the Commission to give effect to the Enactment referred to.”

The *Mofussil* Commissioners, however, were of opinion that the new rule could not be practically enforced, unless the investigations of the Commission were conducted on the spot. The Commission had always conducted its inquiries at the principal station of the Collector, in order that the public records in his office might be examined with facility ; but as those records did not contain any information respecting tenures hitherto considered subordinate to the *zemindary* tenure, it would be necessary for the Commission to proceed to the village or villages in dispute, to adjust the conflicting interests of the co-parceners. The *Mofussil* Commissioners observed that the Clause 7, of Section 3, Regulation I., of 1821, which had given rise to the discussion, was “involved in considerable obscurity. It was of course intended by it to provide for the ascertainment of the tenures, rights, and privileges, and interests of the agricultural community.” But it limited the interference of the Commission to the claims of individuals found in *bonâ fide* possession of some part of the land in dispute, or the produce thereof. The Commissioners recommended that the rule should be altered in as far as actual possession should be deemed a necessary test of right ; and they proposed that the investigation of all such claims should be conducted by the Revenue authorities in a manner similar to that laid down in Section 9, of Regulation VII., of 1822.

In the Government Resolution it was observed that the *Mofussil* Commissioners had formed the above opinion by directing their attention exclusively to the seventh Clause, Section 3, Regulation I. of 1821; and from their overlooking the provisions of the fifth Clause of the same Section, which authorize the Commissioners to take cognizance of the claims of all persons who may have lost possession of any lands, or who may have been deprived of any property in the rent or produce of land belonging to a *mehal* sold by public or private sale.

The Resolution stated that "it was scarcely to be doubted that our public sales must in most cases have so broken asunder the whole constitution of the Village Communities within the estates sold, as that the mischief consequent upon them would be very imperfectly corrected by the mere restoration of the old *malgoozars*. If restored without any definition of their rights, those persons would probably seek to possess all the advantages possessed by the auction-purchasers, and to profit by their usurpations on the privileges of the non-recorded proprietors; and the restoration of the estate might not only fail to secure for the general body of the people the recovery of their legal rights, but prove the occasion of fresh evils, in exciting disputes and litigation. It appeared, consequently, to be very important that the definition of the rights of all the parceners in such estates should, if possible, accompany, and in all cases that it should closely follow upon, the reversal of the sale. The experience of the detailed settlements under Regulation VII. of 1822 seemed to justify the inference that the inquiry was highly satisfactory to the people, and promised to prove the means of preventing much mischievous litigation. The Commissioners would in all cases be careful so to word their decrees as that the rights of third parties might not be compromised; and that the restored *malgoozars*, and all parties interested, may be fully aware that the recognition of their title to the management, as well as their original admission to engagements with Government, did not in any way convey to them new rights of property beyond those which originally belonged to them. In cases in which the claims of parceners might be more than ordinarily intricate, and in which it might be found impossible to secure the agreement of the claimants, and difficult to procure in the *Sudder* Station of the *zillah* the requisite proofs, the Commis-

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sioner trying the case must postpone the decision of such claims until he should be able to proceed to the interior to hold a local inquiry."

To facilitate the inquiries of both Commissions, it was resolved that the *Mofussil* Commissioners should be authorized to decide singly all cases, the decision of which might not involve some general construction of law not already decided by the *Sudder* Commission, or some new principle of general application relative to the rights and interests attaching to landed property; the Commissioners to be at liberty to refer to each other all cases of doubt and difficulty, though not falling within the foregoing exception.

The members of the *Sudder* Commission were likewise authorized singly to decide cases appealed to them, subject to the restriction above stated: but in all cases where it may be necessary to reverse the decision of the *Mofussil* Commission, two members of the *Sudder* Commission must concur in the reversal.

On the 2nd March, 1826, Mr. Christian was appointed third member of the Board of Revenue in the Lower Provinces, and Mr. G. Warde was nominated his successor in the *Mofussil* Commission. On relinquishing his situation, Mr. Christian recorded a Minute explanatory of his sentiments on the duties of that situation. He had evidently a strong desire to limit the proceedings of the Commission to the restoration of the ousted *zemindars*. He considered that "it would be almost impracticable, from various causes, to define the nature and extent of private rights in the mode prescribed by Clause 7, Section 3, of Regulation I., of 1821: and if at the same time it should be necessary to declare the conditions of the tenures of all persons occupying lands belonging to the *mehals* (estates) in dispute, it would," in his opinion, "be quite impossible to adjust the different interests connected with an estate in the occupancy, for instance, of a tribe of Rajpoots, without the most minute inquiries; and no idea could be formed of the length of time that would be required for entering into such details. The privileges of the managing landholders being but imperfectly understood, and those of the cultivators *having never been directly recognized*, it was impossible satisfactorily to pronounce upon them, until more information had

been obtained than could possibly be elicited by a tribunal tied down by judicial forms. In defining the rights even of acknowledged *zemindars*, there was a difficulty not easily surmounted. In every case three things were to be considered, namely, law, usage, and possession. But it had not been stated which of them, when they differed, was not to be adhered to. A sharer might be in possession of a larger portion of the ancestral property than by law he was entitled to; but which, for reasons sanctioned by usage, had been long enjoyed by him. He might also be in possession of a larger portion of property than he had a right to either by law or usage; and it did not appear, that in such a case, the Commission could do more than declare the exact portion which belonged to him, leaving the sharers by whom the excess might be justly claimed, to recover it by a new process through some other authority, which, should such authority take a different view of the subject, might tend to create embarrassment."

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To give effect to the Resolution of Government, Regulation IV. of 1826, was passed, enabling the members of the *Mofussil* and *Sudder* Commissions to sit separately, and, under certain restrictions, singly to try and decide the cases cognizable by the Commissions under Regulations I. of 1821, and I. of 1823. The *Mofussil* Commissioners are also authorized to refer cases of certain descriptions to arbitration; namely, cases in which the specific interest of the several *puttedars* or parceners of an estate or *mehal*, may be difficult otherwise to adjust. In all such cases the Commission may, with the consent of the parties, refer the adjustment of the matters in dispute to the arbitration of three or more neighbouring *zemindars*, or other respectable persons, and pass judgment in conformity with their award.

easier in future to avoid admitting any cases but such as are clearly cognizable.

4. Of the several descriptions of cases brought before us, our attention hitherto has been principally directed to public sales and private transfers. The result of our inquiries on this head incline us decidedly to think that the account given in the preamble of Regulation I. of 1821, of the artifices and frauds on the part of the public officers by which these sales and transfers were brought about, is strictly applicable.

5. It falls indeed to our lot to disclose a system of complicated abuse, which, under the supineness of the local authorities, enabled certain individuals possessed of official influence to pervert to their own benefit large remissions of public revenue granted by Government in consequence of defalcations occasioned principally by their own misconduct; to wrest from the rightful owners, by means of public sale or private transfer, a large proportion of the most valuable estates in this district; and to defraud the Government of the public resources by procuring for themselves, in many instances, a deduction from the annual *jumma* at which those estates were severally assessed.

6. The first settlement was made in 1210 *Fuslee*, and it does not appear that any balances accrued in that year: at all events we have met with no sales. In the year 1211 F. S., there was a drought, of which advantage was taken by the public officers to commit the abuses in question. Government, with a view to alleviate the distress occasioned by the said drought, authorized remissions and suspensions of revenue to nearly one-sixth of the *jumma* of the district; but the distribution was left to the *tehsceeldars*, who exercised their own discretion in varying it as suited their purposes, allowing to some estates four *annas* per *rupee*, and to others three, two, one, or half an *anna* only.

7. Moreover, in the year following, instead of making good to Government, as required by Clause 5, Section 2, Regulation XXVII., of 1803, all balances accruing within their respective jurisdictions, they contrived to be exonerated from the payment of such arrears as were reported by them to be outstanding in all the estates of which

they themselves had assumed the management, and for which arrears, although generally originating in their own appropriations and embezzlements, the estates were eventually brought to sale, and purchased by the *tehseldars* themselves, or their connexions, at a very inadequate price.

8. These malversations were committed apparently on a settled plan, concerted between the principal *Sudder* and *Mofussil* native officers. The *tehseldars* being responsible in the first instance, under the Regulation above quoted, for the payment of the revenue of all estates, no sale could have been legally made on their application for sums demandable by them, until they had fulfilled the conditions of their engagements with Government. Large sums, however, were withheld in the year 1212 *Fuslee*, on the grounds of being irrecoverable, and application was made for their remission: but in the meantime, through the agency of the *dewan* and the Collector's officers, the estates from which the *tehseldars* had reported them to be due, and of which no regular detail is now forthcoming, were brought to sale, and the only persons benefitted by the remissions subsequently granted appear to have been the *tehseldars* themselves, who were seldom required to make good their contract, although a most of the estates, sold in the mode above stated, fell into their hands.

9. It is of course undeniable, that the *tehseldars* expected either that the balances in question would be remitted, or that they would not; if a remission were not expected, why did they withhold payment of the said balances, and submit so fraudulent a statement? And if it were, why were the *zemindars* not allowed to participate after their expectations had been so justly excited?

10. It never could have been intended that the benefit of such large sacrifices of revenue should be enjoyed exclusively by the public officers: much less that the necessity which led to them, should be made the plea for enabling the officers in question to defraud the landholders of their estates.

11. Such, however, is the character of all the sales which took place on account of the years 1211 and 1212 *Fuslee*, in which public officers were concerned. The aggregate amount ultimately

remitted on account of 1211 and 1212 *Fuslee*, was no less than Rs. 5,10,016-9-4; but it was in vain to look either in the *Sudder* or *Mofussil* accounts for any authentic record of its due appropriation. In the *pergunnahs* where the abuses have been the most extensively practised, several of the *tehseeldars'* records up to the end of 1215 *Fuslee*, are not forthcoming; in the accounts of the *canoongoes*, a considerable portion of the remissions are unnoticed, and the balances are still held by those officers to be outstanding. Authentic *putwary* accounts were seldom obtainable, and owing to the collusive understanding which subsisted between the *Sudder* and *Mofussil* officers, the official records of the Collectors' office, relative both to remissions of revenue and sales of land on account of 1211 and 1212 *Fuslee*, have been mutilated and made away with.

12. In short, comparing the imperfect state of the *Sudder* and *Mofussil* records connected with the *pergunnahs* where the abuses in question prevailed, with the correctness and regularity of those where they did not, there can be no doubt of measures having been purposely adopted to render the accounts of the years alluded to unintelligible. It is also remarkable that the sales for alleged balances of the years 1211 and 1212 did not generally take place until the year 1214 *Fuslee*, after the intervention of a new settlement, at which the assessment was generally made on reduced terms, in many instances with the dependants of the *tehseeldars* themselves, and almost always to the exclusion of the former *malgoozar*.

13. The *pergunnahs* in which the most extensive alienation of property has taken place, by means of public sales and private transfers effected by the undue influence of public officers, are Bithoor, Deramungulpore, Ghatumpore, Korah, Jajmow, Sheolee, Russoolabad, and Bilhor.

14. In *Pergunnah* Bithoor the principal proprietor of estates acquired in the mode above mentioned, is *Pergunnah Bithoor*.

Nasir Ali, who held the office of *dewan* to the Collector of Cawnpore in 1211 and 1212 *Fuslee*, and then became *serishtadar* to Mr. Richardson, the Governor-General's Agent in Bundelkhund; his brother-in-law, Sheikh Durwesh Ali, was likewise appointed *tehseeldar* of Bithoor; and Meer Kullub Ali,

his brother, *tehseldar* of Deramungulpore. Between these persons a mutual understanding of course subsisted, and the undue influence they possessed appears to have been most injuriously exercised. The annual *jumma* of *Pergunnah* Bithoor at the first settlement was Rs. 2,93,442-10-0; in 1211 *Fuslee*, Government, in consequence of the drought, authorised the sum of Rs. 54,461-5-3 to be disposed of in the following manner, namely, half to be altogether remitted, and half suspended till the succeeding years. The total amount ultimately remitted on this account was Rs. 46,531-9-0; in that and the year following the sum of Rs. 29,728-12-0 was likewise remitted, on account principally of balances which accrued under the *tehseldar's* management. Such assistance, it might be supposed, had been sufficient to prevent any great mutation of property. Nevertheless, within the short period of two years, during which Sheikh Durwesh Ali was in office, or immediately subsequent thereto, no less than two-fifths of the estates contained in the *pergunnah* were disposed of at public sale or by private transfer, and of these a very considerable number fell into the possession of his brother-in-law, Nasir Ali.

15. The *Sudder* records connected with the sales in question are defective, and in many particulars wholly unintelligible; the accounts of the *pergunnah* are also in the greatest confusion. The *tehseldar's* records up to the end of 1215 *Fuslee*, have been made away with. The accounts of the *canoongoes* exhibit a balance of Rs. 46,662-10-3, while in the Collector's office the amount stated to be outstanding is Rs. 385; so great a difference cannot be accounted for, but on the supposition that the remissions allowed by Government have not been duly appropriated, and that information of the amount has been withheld from the *Mofussil* officers for fraudulent purposes.

16. Thus measures were purposely adopted to render the accounts of the years 1211 and 1212 not to be understood. Balances consequently accrued, attachments were made, the assets were misappropriated, the *malgoozars* were induced to abscond, a re-settlement of lands both before and in 1213 *Fuslee* was made on reduced terms with interlopers, and in the year 1214 extensive sales took place for the recovery of arrears stated to be due for the years 1211 and 1212

Fuslee. The lapse of so great a period was, in itself, sufficient to render recourse to the extreme measures of a public sale highly inexpedient without a previous adjustment of accounts; but when, as was actually the case, the estates were generally under the management of the *tehseeldar* himself during the time in which the balances are alleged to have accrued, and a settlement had been intermediately made with farmers or sharers, it was a novel proceeding to require from the ejected party the payment of a demand, when he had been deprived of the means of providing for the same.

17. By these means the alienations complained of were brought about, and it is remarkable that all the sales and transfers produced by undue influence, not only in *Pergunnah* Bithoor but in others, were followed by a deduction of *jumma* in favor of the new proprietors. The number of the villages acquired by Nasir Ali, in the District of Cawnpore, either at public sale or by private transfer, is 76: the aggregate *jumma* while in the hands of the former proprietors was Rs. 1,47,032-1-3: it is now reduced to Rs. 1,28,856.

18. Although some of these sales were effected after the removal of Nasir Ali and Durwesh Ali, yet there is reason to believe that their successors, *Dewan* Muhindernarain and his connexion, Bhyronath, *tehseeldar*, were easily prevailed on to promote their views. In fact, they likewise followed their example; and Muhindernarain, in the name of his nephew Rambullum, and Bhyronath, in the name of his brother Purumnath, acquired extensive landed property in the same manner.

19. The *Pergunnah*, Deramungulpore, was equally unfortunate under the superintendence of Kullub Ali *alias* Akber Ali, brother, as before stated, of Nasir Ali, *dewan*. Through his agency a system of gross mismanagement prevailed, equally injurious, as in Bithoor, to the interest of Government and the welfare of the agricultural community.

20. From the evidence of the *canoongoes*, and the records produced by them, it appears that the *Sudder* and *Mofussil* accounts do not at all correspond; and of course very little reliance can be placed upon either—for instance, in *Mouzah* Ourungabad, the

balance due in 1212 *Fuslee*, is stated in the *tehseldar's* report to be Rs 1,031-4-3, but in the *canoongoe's* account it is only Rs 397-6-6. The remissions of revenue in 1211 and 1212 *Fuslee* amounted to Rs 29,609-7-9, yet, as in Bithoor, the landholders derived little or no advantage from them. By one statement it was proved that seventeen villages, assessed at an annual *jumma* of Rs 22,228, were sold by auction to persons possessed of official influence for Rs 2,064, and in another statement, there is an account of eight villages, the annual *jumma* of which was Rs 12,855, sold for Rs 671, to persons of the same description.

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21 In order to give some idea of the way in which these sales were brought about, we proceed to detail what was done in regard to *Mouzah* Kupprassee. This village, assessed at a *jumma* of Rs 1,726, was sold by auction in 1213 *Fuslee*, for a balance of Rs 93, stated to be due on account of 1211 *Fuslee*, and purchased by Nasir Ali in the name of Mahomed Dowlut, for the sum of Rs 165. One year after, viz., 1214 *Fuslee*, *Mouzah* Ghooatee, the proprietor of which had become security for Kupprassee, was likewise put up to sale for a balance of Rs 735-8-3, stated to be due from the latter village already sold on account of 1212, and although during the whole of that year Kupprassee was under the management of the *tehseldar*, by whom the deficiency arising from such management was not made good, yet *Mouzah* Ghooatee was sold for the said balance of Rs 735-8-3, and purchased by a fictitious substitute of Kullub Ali, Nasir Ali's brother, for Rs 20.

22 This trifling sum was carried to the credit of Government, while the remaining Rs. 715-8-3, on account of this village, together with Rs 7,386-4-9, on account of other villages in the *pergunnah*, were written off the public accounts on the grounds of an application previously made by the *tehseldar*, who indirectly purchased the estate, in consequence of which he obtained an abatement of the whole sum. To render the irregularity still more glaring, no mention was made in the proclamation issued in 1213 *Fuslee*, of Kupprassee, of any balance being outstanding in that village for the year 1212, nor was the advertisement for the sale of Ghooatee correctly drawn out.

23. Exclusively of the acquisitions made by Nasir Ali and Kullub Ali, other public officers likewise became purchasers of estates in substituted names in Deramungulpore. Of these we have already had occasion to bring to the particular notice of the *Sudder* Commission, Gujraj Sing, who on being called upon by the Magistrate of Ghazee-pore to explain the means by which he had been enabled to amass so large a sum of money as was represented to have been stolen from him, acknowledged that while *tehseeldar* of *Pergunnah* Deramungulpore, he had acquired certain profitable estates, which were purchased by him in fictitious names contrary to the Regulations.

24. Glaring, however, as are the abuses already described, those committed in the *pergunnah* of Ghatumpore are still more palpable. When Mr. Welland came to this district, he was accompanied by one Ahmud Bukhsh, a native of Jounpore, whom he appointed to be his *Nazir*. This man's nephew, Zoolfikar Ali, was about the same time placed in the situation of *tehseeldar* of *Pergunnah* Ghatumpore, and became, in fact, merely an instrument in his uncle's hands. It is even asserted that Ahmud Bukhsh enjoyed all the emoluments of the office, and allowed his nephew but a small fixed salary. Be that as it may, the *tehseeldar* in all he did was in complete subjection to Ahmud Bukhsh, who, from a situation of which the salary was merely Rs. 25 or Rs. 30 a month, and which he did not hold more than a year, ^{by} ~~by~~ ^{the} ~~the ^{powerful} ~~powerful~~ ^{men} ~~men in the district, built ^{under} ~~under~~ ^{Purumnath} ~~Purumnath~~, acquired ^{extensive} ~~extensive~~ ^{powerful} ~~powerful~~ ^{men} ~~men in the district, in the same manner. ^{lost} ~~lost~~ ^{upwards of Rs. 25,000,} ~~upwards of Rs. 25,000, ^{that} ~~that ^{pergunnah} ~~pergunnah~~ which yielded to Government ^{that} ~~that~~ ^{Purumnath} ~~Purumnath~~ acquired them a *jumma* of no less than *sicca* Rs. 56,826-8-9 per annum.~~~~~~~~~~

25. In order more effectually to promote his views, he had recourse to the employment of five persons, named Puhlwan Beg, Meer Aghawan, Muddud Hossain, Darrah Khan, and Jan Ali, who were all strangers to this district, and are represented to have accompanied him and his nephew, Zoolfikar Ali, as servants or dependants from Jounpore.

26. These five persons were employed as circumstances required, either as *ameens* deputed to attach estates, as farmers when the pro-

prietors were to be excluded from the management, as purchasers when Ahmud Bukhsh wished to acquire the property, and as sureties for each other on all occasions when the forms of procedure required security to be furnished ; thus these five names figure alternately in one or other of the capacities above mentioned, in all the estates, almost without an exception, now in the possession of Ahmud Bukhsh.

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27. For the purpose of explaining more fully the manner in which these five people were made use of, we will state a few instances of many, in which their names happen to occur. When Akberpore, Beerbur, and other villages were placed under attachment, 1212 *Fuslee*, in consequence of the alleged default of the *malgoozars*, Muddud Hossain was deputed as *ameen* for the purpose. The village of Gohurpore Beohtau assessed at Rs. 2,179, was farmed in 1213 at the reduced *jumma* of Rs. 1,744 to Darrah Khan, and purchased at auction the year after for Rs. 175, in the name of the aforesaid Muddud Hossain, by whom it was collusively transferred, together with three other auction purchases, yielding an annual *jumma* of Rs. 5,194, to Ahmud Bukhsh, for the nominal sum of Rs. 385. The villages of Bulhapora, Seharee, and others, assessed at Rs. 5,941-6-3, were farmed in 1212 *Fuslee*, at the reduced *jumma* of Rs. 4,341, to Meer Aghawan, and purchased by Ahmud Bukhsh in the name of Puhlwan Beg, for the sum of Rs. 515. The village of Bubboorha Ghutwa, assessed at Rs. 2,505-9-6, was let in farm in 1213 to Jan Ali at a reduced *jumma* of Rs. 1,800, on the security of Puhlwan Beg; and the year following it was purchased by Ahmud Bukhsh in the name of the said Puhlwan Beg, for Rs. 30. The village of Roha, assessed at Rs. 2,201, was farmed in 1213 by Darrah Khan at a reduced *jumma* of Rs. 1,801, on the security of Puhlwan Beg; and the year after was purchased by Ahmud Bukhsh for Rs. 50, in the name of the said Puhlwan Beg, for whom Meer Aghawan became the surety. The village of Hurbuspore, assessed at Rs. 2,014, was farmed in 1213 at a reduced *jumma* of Rs. 1,801, to Meer Aghawan, on the security of Darrah Khan, and purchased by Ahmud Bukhsh in the name of the said Aghawan for Rs. 375. Meer Aghawan was also the surety of Puhlwan Beg, when the name of the latter was recorded as the pur-

chaser of *Mouzaahs* Sookaporo, Huttrooa, and Kunrorria, now in the hands of Ahmud Bukhsh. Numerous other instances of the same kind might be brought forward, but we conclude that the above are sufficient.

28. In 1211 *Fuslee*, the *mal'goozars*, generally speaking, fell in balance in consequence of the drought. Their estates were accordingly attached by the *tehseeldar*, and placed under a person of his own selection, with whom the balances increased. Thus the lands remained until 1213 *Fuslee*, when they were either let in farm to one of his before-named dependants at a reduced *jumma*, or settled with an alleged *patteedar*, from whom an agreement was taken either to purchase the estate himself, or give it over without objection to whoever should become the purchaser. The former recorded proprietors being thus excluded from the management, the estates were brought to sale in 1214, without explanation of accounts, for balances said to be outstanding in 1211 and 1212, and purchased by the *tehseeldar's* uncle, Ahmud Bukhsh, in the name of one of his dependants, for a mere trifle. No portion of these balances, or at most a very small one, was made good to Government by the *tehseeldar*; the rest was remitted in consequence of applications made for that purpose previous to the sales.

29. The remissions allowed by Government in this *pergunnah* on account of the drought of 1211, amounted to Rs. 36,139-4-3, and a further sum of Rs. 423-9-0 was relinquished on account of deficiency of assets in estates, the *mal'goozars* of which were reported insolvent or not forthcoming. In 1212 *Fuslee* the amount ordered to be remitted at the application of the *tehseeldar*, on account of villages which, generally speaking, were under his own management, was Rs. 11,436-6-0. Nevertheless, of 166 estates which the *pergunnah* contains, no less than 40 were sold by auction to public officers for balances alleged to have accrued in those two years, and of that number 35 became the property of Ahmud Bukhsh.

30. The fact of balances to the extent alleged, having been actually outstanding at the time of sale, is rendered extremely questionable by the measures taken on the part of Ahmud Bukhsh and Zoolfikar Ali, to prevent it from being ascertained. The *tehseel-*

daree records have all been made away with by the latter up to the end of 1215 *Fuslee*; and from the collusive understanding which subsisted between his uncle, Ahmud Bukhsh, and the *Sudder amlah*, the few accounts of this *pergunnah* which are to be found in the Collector's office, have been designedly rendered so contradictory, that the defendant's *moolhtars* acknowledge them to be unintelligible: on the other hand, the plaintiffs can afford no explanation; they are utterly uninformed in regard to all the *minutiæ* of the process by which they have been deprived of their property. They know merely that their estates were sold by auction, and are now in the hands of those by whom they were brought to sale.

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31. Other devices were likewise resorted to to procure the sale of estates. No less than fourteen separately assessed villages, yielding an annual revenue of Rs. 20,135-7-3, were sold by auction on the mere attestation of the *tehseeldar*, Zoolfikar Ali, for sums due from persons who were not the recorded proprietors; the whole of these villages were purchased by the aforesaid Ahmud Bukhsh, the *tehseeldar*'s uncle, either in his own name or that of his servants, for the inadequate price of Rs. 2,825: they are now held in the name of his son on a reduced *jumma* of Rs. 15,358.

32. It would be remarked that in all the estates acquired by Ahmud Buksh, he had influence enough, like Nasir Ali, to procure a reduction of the *jumma*. The aggregate amount at which they were assessed, when the settlement was made with the original proprietors, has been already stated at *sicca* Rs 56,826-8-9 per annum: it is now reduced to *sicca* Rs. 46,085.

33. The above is an outline of the nefarious proceedings of which Ahmud Buksh, in collusion with his nephew, Zoolfikar Ali, has been guilty. For a development of the particulars, we refer to the cases themselves. The light which they throw upon each other assists to expose the systematic frauds which characterize the whole, and of which it is only by an attentive consideration of all the cases, that an adequate idea can be formed. It should be added that Zoolfikar Ali is still in the public service; he was transferred in 1217 *Fuslee* from Ghatumpore to Bilhor, in which *pergunnah* he still continues to hold the office of *tehseeldar*.

34. In *Pergunnah Korah*, the *tehseldar*, Omrao Sing, proceeded much on the same plan as Ahmud Buksh and his nephew, though perhaps not quite on so extensive a scale. A similar proportion of the *jumma* was remitted on account of the drought of 1211, and similar abuses were practiced in the appropriation; in the like manner he ejected the proprietors on the grounds of arrears being outstanding in that, or the following year. He placed their estates under attachment without any authority from the Collector for so doing, put his own dependants in charge, and finally after submitting an application for the remission of the balances accruing under their management, he brought the estates to sale, and purchased them himself, in the names of fictitious substitutes, at a very inadequate price: the total amount of remissions granted by Government on account of 1211 and 1212 *Fuslee*, amounted to Rs. 42,737-14-3.

35. The records relating to this *pergunnah* are likewise in the most defective state. In the Collector's office the monthly *tauzees*, the *seha* and *khutconce* account, and other important papers, necessary to be preserved in regular series, are not forthcoming. In the *tehseldar's* office there are no papers at all up to the end of 1215 *Fuslee*: the *canoongoes* declare that they can produce no accounts whatever; and as to the *putwarrys*, we have not met with any on whose papers it would be safe to place the smallest dependance.

36. Of the estates brought to sale in the mode above-mentioned, 16, assessed at a *jumma* of *sicca* Rs. 32,096-12-0, were purchased by Omrao Sing, while he was himself in office, for the sum of Rs. 5,055, in the name of Ashrufee Lal, a *mootsuddee* in his employ, and Hossain Ali, his *mookhtar* at the Collector's office; by them the whole of these villages were collusively transferred to Jewahir Sing and Bukhtawur Sing, the former the brother of Omrao Sing, and the latter a very near connexion by marriage, who sold them in 1220 *Fuslee* to Nawab Hossain Ali Khan of Lucknow, for Rs. 30,025.

37. In *Jajmow*, the mutations of property occasioned by undue influence have likewise been less extensive than in Bithoor or Ghatumpore, yet several estates of considerable value were unjustly wrested from the

proprietors. While Abdoolla Khan held the situation of *tehseldar* of that *pergunnah*, some of these estates were purchased in substituted names for himself, and others by his *naib*, Bukhtawur Sing. Of the former description is *Mouzah* Seesamow; of the latter the village of Boresur; both of which cases are now depending in appeal before the *Sudder* Commission. The number of villages alienated between the Cession and the end of 1217 *Fuslee*, amount to 55, of which about 30 appear to have been purchased by public officers.

38. To detail the mode in which these sales were brought about, would be merely a repetition of what has been already said respecting the other *pergunnahs* above alluded to; the same irregularities appear also to prevail in the accounts; which, especially in regard to remissions, are involved in very great confusion.

39. The sums remitted to the *tehseldar* from the beginning of 1211 to the end of 1215 *Fuslee*, amount in the aggregate to Rs. 93,190-8-3; but such is the state of the records, that to trace the appropriation of the same is impossible. We have already, in our letter of the 7th of February last, drawn the attention of the *Sudder* Commission to an item of Rs. 28,000, which had never been brought to account. We have since ascertained from papers bearing the seal and signature of the *tehseldar* himself, that the sum in question was actually realized by him from the *pergunnah*; and we infer from a letter from the Board of Commissioners, dated 27th of January, 1809, that it was erroneously remitted under the head of "unaccounted balances due on the *tehseldar's* *wasilbahee* of *Bhadoon* 1215 *Fuslee*." We are in correspondence with the Board on the subject, and should any further information be procurable, it shall be reported hereafter.

40. *Pergunnah* Sheolee was also the scene of very flagrant abuses on the part of the *tehseldar*, Baboo *Pergunnah* Sheolee. Ram Mohun Ghose. Although the number of estates indirectly purchased by him were not numerous, yet they are profitable; and in bringing them to sale, he seems unscrupulously to have had recourse to the grossest irregularities by means of false representations and other unwarrantable expedients. He contrived to get the estates afterwards purchased by him placed under

from distant parts of the Ceded and Conquered Provinces, in the hope of obtaining redress from its operation.

55. Moreover, by laying open to the view of every one the means employed by the native officers to obtain their ends, it may be said to have vindicated the character of Government from the suspicion of conniving at their misconduct, and has disclosed what was not before generally known, that Government itself was as much imposed upon as the people. It has likewise, may it be hoped, assisted to produce a conviction in the minds of official men, of the extensive mischief with which indiscriminate resource to the expedient of selling lands for arrears of Revenue is inevitably attended to both ?

2.—*From E. MOLONY, Esq., Secretary, Sudder Special Commission, to H. MACKENZIE, Esq., Secretary to Government in the Territorial Department—dated Fort William, the 8th August, 1822.*

SIR,—The *Sudder* Special Commission having received from the *Mofussil* Commissioners a report bearing date the 27th April last, on the subject of their operations under Regulation I. of 1821, in *Zillah* Cawnpore, up to that date, it will of course be expected by His Excellency the Most Noble the Governor-General in Council (to whom a copy of it appears to have been submitted by the Commissioners), that the *Sudder* Commissioners should state their own sentiments and views in general on the subject of that report.

2. It appears to the *Sudder* Commission, however, advisable to postpone this duty until the *Mofussil* Commission shall have finished its duties in Cawnpore, and the *Sudder* Commission shall have been more fully furnished with materials for stating their opinion. The number of cases already decided by them is inconsiderable, and many appeals are yet depending before them, from cases decided in that district, from which of course much additional information will be elicited.

3. With the permission, therefore, of His Excellency in Council, the *Sudder* Commission will postpone for the present the expression of any general opinion relative to the operation of the Regulation in Cawnpore. This delay seems more particularly desirable, since the *Sudder* Commission, as the Government are probably

aware, and may have inferred from rather frequent reversals of decrees passed by the *Mofussil* Commissioners, do not entertain such favorable impressions with regard to the effect of the Regulation, as those stated in the report above alluded to.

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4. I am further directed to enclose for the information of His Excellency in Council, copy of the abstract report, showing the number of causes disposed of by the *Mofussil* Commission up to the end of last year, and the number depending on the 1st of January of the present year. The *Sudder* Commission also take this opportunity of submitting, for the consideration and orders of Government, the accompanying copy of a letter dated 8th ultimo, which they have received from the *Mofussil* Commission.

5. As the *Mofussil* Commission decide from 15 to 20 causes on their merits in each month, the *Sudder* Commission are aware that the English reports must occupy some portion of their time, and they are of opinion that if Government could attach, as Assistant or Secretary to the Commission, some officer who has had three or four years' experience as Registrar of a Civil Court, it would materially relieve the *Mofussil* Commission, and enable them to devote more of their time to the investigation of the suits which are brought before them. The *Sudder* Commission are the more disposed to recommend this measure to Government, as it appears to them that it will in the end be attended with a saving of expense. They have little doubt that the aid of such an Assistant or Secretary will enable the *Mofussil* Commission to complete the duties in a shorter period than they can be expected to do without such aid, and therefore they conceive that the saving of the salaries paid to the members of the *Mofussil* Commission during that time, will probably cover the amount of any allowance which it may be deemed necessary to give to an Assistant.

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1.—RESOLUTION, GOVERNMENT OF INDIA : REVENUE DEPARTMENT, FORT WILLIAM, THE 2ND APRIL, 1824, ON POINTS CONNECTED WITH THE SPECIAL COMMISSION APPOINTED UNDER REGULATION I. OF 1821 ; AND MINUTES OF THE MEMBERS OF THE *SUDDER* COMMISSION.

THE Governor-General in Council observes that the decision of the *Sudder* Commission in the two cases* in question would appear to be founded on the assumption that the *mocuddumee* tenure is necessarily distinct from, and subordinate to, that of the *zemindaree*.

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2. Such undoubtedly appears to have been the conception of the framers of the Code of 1803. But Government has repeatedly had occasion to observe that the Regulations of that year were framed with a very imperfect knowledge of the actual state of landed property; and there is evidence to show that the term *mocuddum* is equally applicable to the headman and representative of a body of *zemindars* possessing a clear heritable and transferable right of property in the soil, and subject only to the payment of their quota of the Government assessment and of the village expenses, as to the headman and representative of a body of cultivators claiming no transferable property, and paying, along with the Government Revenue, a clear rent or *zemindaree russoom* to one or many proprietors.

3. In the former case it is obvious that the *mocuddumee* tenure may properly be regarded as superior in degree, at least where the *mocuddum* shall be able to preserve among his fellows the superiority which appears to have belonged by the custom of the country to the managing *malgoozar*, and to have secured any special emoluments of office. It stands to the *zemindaree* tenure in the relation of a director to any general body of proprietors whose affairs he may be chosen to represent, such director being himself also a proprietor, and as such drawing an income from his property distinct from the emoluments of his office, but eligible for that office in virtue of his proprietary character.

* See the cases appended to this Resolution.

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4. There is reason to believe that the anxiety evinced by the people to claim the title of *zemindar* in preference to that of *moocuddum*, is to be traced to the peculiarities of our Revenue system, under which, unfortunately, names rather than things have been the object of record. The people naturally shape their pleas to meet the views exhibited by our Regulations, and the notions entertained by our officers. Although, therefore, it may be assumed that a person who at the time of our acquiring the country bore the designation of *moocuddum*, was certainly not alone the proprietor of the village which he managed in that capacity, it cannot safely be assumed that he held of any superior *zemindar*. He may have done so, representing merely the class of occupant cultivators, but he may also have been himself a sharer in the *zemindaree*, and the elected hereditary or selected representative of a coparcenary of proprietors.

5. Nor is the designation *moostajir* conclusive. Either class of *moocuddums* may have obtained a lease of their village, contracting for the payment of a stipulated sum to Government, and collecting from their fellows according to the rate demandable by the Government officer under *kham tehseel*, instead of levying specific *quotas* of a *jumma* to which all had agreed.

6. In the Regulation Provinces a *moocuddum* of the latter class would probably sue under the title of *zemindar*, without intending to claim an exclusive property, or to deny the rights of his coparceners, unless where the term *lumberdar* had been introduced to designate the peculiar tenure of a proprietary manager.

7. The Special Commission would not, of course, lay stress on any technical irregularity in the pleading, and it is peculiarly their province to correct any errors of record where any may have occurred, and especially to afford relief in cases wherein parties may have suffered by an erroneous recognition of property, which the Revenue authorities held binding on themselves, and for which the Courts did not apparently afford any sufficient means of correction.

8. In cases of the nature in question, it appears to be indispensably necessary to enter into a minute investigation of the actual nature of the interests possessed by the several parties, the point at

issue being mainly—which possess such a right of property in the soil and in the produce of it, as to entitle them to the benefit of engagements with Government? It would, therefore, have been satisfactory to Government to have learnt that some inquiry (by preference a local inquiry) had been instituted to ascertain how and when the occupancy of the different parties had commenced; who and of what class are the cultivators of the village; what the origin and descent of the claimants, and the basis of their alleged title; how far their allegations are borne out by a reference to the general body of the village community and of the neighbourhood; whether either of them received any *zemindarce russoom* from the cultivators or residents when the village was under *kham tehseel*, or held or granted *lakheraj* lands, or planted gardens, or disposed of waste, or otherwise exercised any privilege, or received any perquisite indicating the possession of a right of property, and of what kind? In short, the point at issue being chiefly, whether the *sudder malgoozar* was rightly admitted to engage, the occupancy of the other party in some character or other being admitted, it seems to be essential that the real extent and nature of the interests possessed by them should be, as far as practicable, elucidated, and especially that the nature of the *mocuddumee* tenure, supposed to be vested in the plaintiff, should be ascertained.

9. Now it is stated by the senior and second members of the *Sudder* Commission, that “the cases hitherto brought before them do not enable them to define with any exactness the nature and extent of the interests generally considered to belong to the *mocuddumee* tenure in the District of Cawnpore;” and it is obvious that if the nature of the *mocuddumee* tenure is doubtful, that of the *zemindar*, whose interests in the *mehal* must be restricted by the rights possessed by the *mocuddum*, must be equally undefined. The Governor-General in Council would apprehend, therefore, notwithstanding the caution used by the *Sudder* Commission, that their present decision, even though right in the individual instance, may lead to serious misapprehension and error by giving an artificial force to the terms *zemindar* and *mocuddum*; and His Lordship in Council is desirous, therefore, that the *Sudder* Commission should revise their judgment in the cases in question, after calling for such further evidence as may appear necessary.

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Ordered, therefore, that the papers in this case be referred for the decision of the *Sudder* Special Commission, in pursuance of Clause 6, Section 10, Regulation I. of 1821.

[ENCLOSURE B.]

Translation of Decree of the Sudder Special Commission, at a sitting held before Mr. HARRINGTON and Mr. PATON, on the 13th December, 1823.

ON consideration of all the papers received in this case, and the circumstances stated in the proceeding of the *Mofussil* Special Commission, under date the 13th March, 1823, especially the following, *viz.*,—

1st,—That in the *Fuslee* year 1810, when a settlement for the *zemindaree* of the village of Mundoly was made with Khuleel Khan, and also when the second triennial settlement in 1213 was again made with Khulleel Khan, the plaintiffs, although present in the village, did not offer to the Collector any objection or statement of their claim to the *zemindaree*: 2ndly, that afterwards, when, on the 14th February, 1808, corresponding with the 2nd *Phagoon* 1215 *Fuslee*, Khuluk Sing, calling himself *zemindar* of *Mouzah* Mundoly, presented a *darkhast* to the Collector for the settlement, and the Collector, on the 15th February, 1808, passed an order thereupon, for making the settlement with Khulleel Khan, and consequently rejected the application of Khuluk Sing; yet neither that person, nor any other of the plaintiffs, instituted a claim to the *zemindaree* in the *Zillah* Court, during a period of 13 years: 3rdly, that now, after the lapse of 20 years, without full proof of the *zemindaree* title of the plaintiffs to the disputed village, and of their possession of the *zemindaree* to the year 1209 *Fuslee*, with their dispossession in *Fuslee* year 1210, by the settlement of that year in the name of Khuleel Khan having been made through collusion with the *canoongo* and *tehseeldar*, and want of due information on the part of the Collector, to dispossess defendants, the present holders of the *zemindaree*, it would not be just or conformable to the intention of Regulation I. of 1821; and 4thly, that the *zemindaree* right of plaintiffs is not so established on clear and unsuspecting evidence, as appears fully from the proceeding of the *Mofussil* Commission,

above referred to It is finally ordered and decreed, that the claim of plaintiff to the *zemindaree* of *Mouzah* Mundoly, be rejected and dismissed, and that the costs of both parties in the Court of the *Mofussil* Special Commission be paid by the plaintiffs In the *Sudder* Special Commission no costs have been incurred

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In the investigation and decision of this case the claim of plaintiffs to a *zemindaree* title having alone been tried and determined, as above stated, and it appearing from several documents that *Khuluk Sing*, the father of *Alum Sing*, plaintiff, and *Oode Sing*, the father of *Bhugoo Sing*, plaintiff, with other *karindahs* of *Mouzah* Mundoly, were in possession of cultivated lands (*kisht*) in the village to the year 1209 *Fuslee*, as specified in the *ikramamah*, dated 25th June, 1802, or 2nd *Assar* 1210 *Fuslee* (Exhibit No 140), and in the copy of a *jummabundee* and *zemindaree* *kyfeet*, for 1210 *Fuslee* (Exhibit No 109), the latter of which, signed by *Noorool Hoodah*, *foujdar*, states the village of Mundoly to be the *zemindaree* of *Khulcel Khan*, &c, *zemindars* of *Borah*, and that during a *tham tehseel*, *Khuluk mocuddum* pays the revenue, and for some years has received Rs 50 as *nankar* but under what *mocuddum* tenure *Khuluk Sing* received Rs 50 *nankar*, and in what manner plaintiffs and their ancestors held cultivated lands in the village of Mundoly, not having been ascertained in the trial of the suit—it is hereby declared and provided that whatever rights may belong to plaintiffs in these respects shall not be infringed or affected by the present decree relative to the *zemindaree* It is proper that defendants, during their own possession of the *zemindaree* of *Mouzah* Mundoly, maintain plaintiffs in possession of their cultivated lands (*kishtkaree*), and *mocuddumtee* tenure as heretofore. If not, plaintiffs will be at liberty to prefer their just claim in the *Zillah* Court

[ENCLOSURE C]

Translation of Decree of the Sudder Special Commission in the referred case—SHEO LAL, Plaintiff, versus MUSSUMAT SHAJOO, widow of Bhoje, and HURSHAI, adopted son of ditto, at a sitting held before MR HARRINGTON and MR PATON, on the 27th December, 1823

On consideration of all the papers in this case, in concurrence with the opinion of the *Mofussil* Commissioners, stated in their pro-

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ceeding of 17th May, 1823, the claim of the plaintiff to the *zemindaree* of *Monzah* Doorgadaspoor Kishen, is judged not to be established. It is indeed clearly ascertained that plaintiff and his father, Dhunkul Sing, possess no proprietary right (*huki milkeat*) in the village, beyond those of a *kishtkarce* and *mocuddumee* tenure. Dhunkul Sing, at the first settlement in 1210 Fuslee, engaged as a *mocuddum mostajir* according to the terms of his own *darkhast*. In 1211 he absconded on account of a balance of revenue ; and his son, the plaintiff, colluding with Tajoodeen Hossein, *tehseeldar*, falsely called himself *zemindar*, and obtained a *pottah* for the settlement of four years, from 1212 to 1215, through the *tehseeldar* ; but executed a *kabooliyat* as *mocuddum mostajir*, dated 27th January, 1805. Afterwards he gave a *darkhast* as *mocuddum mostajir*, for the settlement of four years, dated 14th February, 1808, which was sent by the Collector to the Board, with a *darkhast* for the four years' settlement from Bhoje Lal, as *zemindar*, dated 12th September, 1809. The Board rejected the plaintiff's proposal for a farming settlement, and ordered a *zemindaree* settlement with Bhoje Lal. Although for some years before the commencement of the Company's administration in 1210, a *zemindaree* settlement may not have been made with Bhoje Lal : yet from the documents of defendants, and the evidence of witnesses named by both parties, it appears that the village in dispute is really the ancient *zemindaree* of Bhoje Lal, Agurwala, and that he was present and occupied the village till the year 1185, when it was ruined by the oppressive conduct of Seetulpershaud, *amil*. The documents of defendants also show the subsequent possession of Bhoje Lal, as late as 1193 ; and the Revenue settlements not being made with a *zemindar* does not imply dispossession from his *zemindaree* under the former or present Government. The Board having ordered a *zemindaree* settlement with Bhoje Lal, as above stated, and he having obtained possession accordingly, to dispossess his heirs from the *zemindaree*, without proof of the title of another claimant to the *zemindaree* right, would be unjust and improper. It is, therefore, on full consideration of all the above grounds, finally ordered and decreed, that the claim of plaintiff to the *zemindaree* right of the village be rejected and dismissed, and that the costs of the suit be paid by the plaintiff. But as this decision is confined to a rejection of plaintiff's claim to the *zemindaree*, what

over rights in a *mocuddumee* or *kisthatee* tenure may have hitherto been possessed in the village by the plaintiff or his father, will not be affected by the present decree. If there should be any disagreement between the parties on this account, and it cannot be amicably adjusted, plaintiff and his father will be at liberty to prefer a distinct claim in the *Zillah* Court, in pursuance of the general Regulation.

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[ENCLOSURE D.]

Remarks by MESSRS. J. H. HARRINGTON and W. PATON, Senior and Second Members of the Sudder Special Commission, 13th March 1823.

In the second paragraph of Mr. Secretary Mackenzie's letter, dated the 20th ultimo, relative to the English reports prepared by our Secretary, of cases decided by the Commission in December and January last, it is observed—"the general result of these papers is very satisfactory to Government. In regard to two of the cases decided in December, *viz.*, Alum Sing and others *versus* Tajooddeen Hossein and others (No. 12 of referred cases), and Sheo Lal *versus* Mussamut Shajoo, &c. (No. 17)—His Lordship in Council would be glad to receive some explanation of the force of the terms *mocuddum*, *malik*, and proprietor, as used in the report, which, as it now stands, scarcely affords a sufficiently distinct notion of the nature and extent of the interests considered to belong to the parties."

Mr. Molony, being absent from the Presidency with the permission of Government, and the two cases referred to having been decided by the Senior and Second Commissioners, they have adverted to the document from which the reports of these cases appear to have been prepared, and now record the following remarks for the information of the Right Honorable the Governor-General in Council:—

In both reports, all that relates to the pleadings from the *Mofussil* Commission, and the sentiments entertained by the *Mofussil* Commissioners upon their view of each case, appears to have been transcribed (with a slight verbal alteration) from the English abstracts transmitted by the Commissioners. The word "*proprietor*," as used

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in this part of the two reports, therefore, is adopted from the English abstracts of the *Mofussil* Commissioners; and in comparing these abstracts with the Persian proceedings of the Commissioners, it appears to have been used in every instance for the original term "*zemindar*." The word "landholder," which occurs in the sixth paragraph of the report, in case No. 17, is also used for the same original designation (*zemindar*), and the word "*zemindaree*" in the Persian proceedings is rendered "property" or "hereditary property," in the English abstracts of both cases.

The word *malik* does not appear to have been used by the *Mofussil* Commissioners, nor does the title of "*mocuddum*" occur in their English abstract of the first case (No. 12), but it is introduced more than once in their abstract of the second case (No. 17), and though not defined, is evidently understood and adopted by them to express a subordinate tenure inferior to that of a *zemindar*.

In the concluding parts of the two reports which relate to the decisions of the *Sudder* Commission, Mr. Molony appears to have substituted the term *malik* for the term *zemindar* in the original Persian decrees, and in the second case (No. 17) has twice translated "*hukiut zemindaree*," proprietary right. In both reports of the decrees of the *Sudder* Commission he has adopted the original word *mocuddumee*, as evidently intended to denote a tenure subordinate to the *zemindaree* estate claimed by the plaintiff, and which, not having been the subject of investigation in the trial of the *zemindaree* title, it was thought proper to declare unaffected by the decision passed upon this title exclusively.

The Senior and Second Members of the Commission hope that the above explanation will prove satisfactory to the Right Honorable the Governor-General in Council; and for His Lordship's further information beg leave to annex a literal translation of their decree in each of the two cases referred to. In the first cause (No. 12) the abstract given by the *Mofussil* Commissioners, and copied into the Secretary's report, not containing so full a statement of the facts and circumstances of the case, as the detail given in their proceeding of the 13th March, 1823, a translation of their proceeding is also submitted for the information of Government.

With a view to prevent any future misapprehension of the term "proprietor," or any other English designation of the holder of a local tenure of land, which may occur in the reports of causes decided by the Commission, it seems advisable that the established original designation of such tenures should be invariably adopted (with or without an English translation), and the necessary instructions for this purpose will be given to the *Mofussil* Commissioners, as well as to the Secretary of the *Sudder* Commission.

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It may be proper to add, in conclusion, that the cases hitherto brought before the Senior and Second Members of the *Sudder* Commission do not enable them to define with any exactness the nature and extent of the interests generally considered to belong to the *mocuddumee* tenure in the District of Cawnpore.

The *Mofussil* Commissioners have been instructed in their further report on a general review of their proceedings in the District of Cawnpore, to state the result of any information obtained by them relative to the landed tenure in that district, especially the *mocuddumee* tenure as found to exist in subordination to the *zemindaree* tenure, or independent of any superior tenure. But the result of the inquiries ordered by the Resolutions of Government in the Territorial Department, passed on the 22nd December, 1820, will, if duly carried into effect, furnish the most complete and satisfactory evidence upon this and other important points connected with the rights and interests of the several denominations of landholders, whether chief or subordinate. In the meantime, following strictly the very just principles declared in the 69th paragraph of those Resolutions (and in their judicial capacity they could observe no other), that "nothing can be more hazardous in questions of fact than to decide in one case from the analogy of another;" and that the facts therefore touching each village ought, as far as possible, to be made to rest on a distinct investigation: the Commissioners have in every instance, where the claim to a village tenure, whether by right of *mocuddumee* or *zemindaree*, has come before them, been guided in their decisions more by the actual evidence in the case, than by any general regard to the denomination of the tenure, except both tenures have been shown to exist in the same village; and in that case the

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zemindaree has been considered the superior tenure according to established usage and the evident sense of the parties, who in such instances are always anxious to prove a *zemindaree* title.

2.—FROM E. MOLONY, ESQ. SECRETARY, SUDDER SPECIAL COMMISSION, TO MESSRS. H. G. CHRISTIAN & W. W. BIRD, MOFUSSIL SPECIAL COMMISSION, ALLAHABAD—DATED FORT WILLIAM, THE 24TH APRIL, 1824.

GENTLEMEN,—I am directed by the Sudder Special Commission

1. Letter to the Secretary to Government in the Territorial Department, dated 25th ultimo, with the enclosures therein referred to.

2. Letter from Revenue Department, dated 2nd April, 1824, in answer to the above, with its enclosure dated 2nd instant.

3. Mr. Harington's Minute, dated 24th instant.

4. Mr. Paton's Minute, dated 23rd instant.

to forward for your information the documents noted in the margin, and communicate to you the following instructions relative to the cases alluded to in them :—

2. The Senior and Second Members of the Commission have resolved (as you will observe from the accompanying copy of their Persian proceedings of this day's date) to revise their decisions in the cases numbers 12 and 17, which were referred by you ; and the chief object of this revision will be to ascertain and define as correctly as may be practicable the relative rights which belong to the individuals who are respectively denominated *zemindars* and *mocuddums* in these particular cases ; as well as to ascertain as clearly as may be, what is the exact nature of the interest and the extent of right vested in persons who are styled *mocuddums* in *Zillah* Cawnpore, under every variation in which the *mocuddumee* tenure may be found to exist in that district, either as appertaining to one or more sharers in a joint *zemindaree* or other proprietary estate, or as a subordinate tenure of whatever description.

3. It is the wish of the Sudder Commission that you should report fully to them the evidence obtained, with your sentiments upon this question. It appears to them that the nature of the *mocuddumee* tenure, both in these individual cases, and as it exists generally in the District of Cawnpore, will best be ascertained by a minute local inquiry. The Sudder Special Commission must, how-

ever, trust to the experience which you have acquired during your residence in that district, to point out the best mode of procuring the information which is now required. You will be pleased, therefore, to take such measures upon this reference as you may consider most likely to attain the object in view, keeping in mind that it is the wish of Government and of this Commission that the general question under consideration shall be fully met, amply yet carefully discussed, and if possible finally determined.

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4. The *Sudder* Commission, in conclusion, direct me to observe that as the Collectors of land revenue have been required under the provisions of Regulation VII. of 1822, to enter on a full and complete inquiry into the nature of all tenures, however denominated, it strikes them as not improbable that you may be able to obtain from the Collector of Cawnpore some accurate information and documents relative to the subject of this reference; and in the event of its being found that the *mocuddumee* tenure, when not the share of a *zemindaree* or other proprietary estate, is still hereditary and transferable, you are requested to furnish copies and translations of any deeds of transfer which may be procurable relative to such tenure.

[ENCLOSURE A.]

MR. HARRINGTON'S *Minute*.

On the fullest consideration of the decisions passed by the Second Member of the *Sudder* Special Commission and myself in the referred cases, numbers 12 and 17, I see no reason to alter the judgment formed by us in either of those cases, on the only point at issue between the parties, and which alone constituted the claim of the plaintiff in each case, viz., the *zemindaree* right in the contested villages respectively.

In the first case (No. 12) Alum Sing and others claimed the village Mundoly as their hereditary *zemindaree*, and were opposed by the heirs of Khan Khanan, who stated their own *zemindaree* title to the villages, founded on a purchase made by their ancestor in the *Hijri* year 1200 (or 1192 *Fuslee*), jointly with a connection named Meer Sheer Ali, who afterwards sold his share to Khan Khanan in 1205 *Hijri*; and pleaded that Khulcel Khan, the father of Khan

Khanan, as ostensible *zemindar*, was admitted to the first settlement under the British Government in the *Fuslee* year 1210, without any objection or molestation on the part of the plaintiffs, since which their ancestors and themselves had held uninterrupted possession.

It appeared from the proceedings held in this case that in the *Fuslee* year 1210, when a settlement for the *zemindaree* of the village of Mundoly was made with Khuleel Khan, and also when the second triennial settlement in 1213 was again made with Khuleel as *zemindar*, the plaintiffs, although present, and cultivating lands in the village, did not offer to the Collector any objection or statement of their claim to the *zemindaree*. It further appeared that when in February, 1808 (or *Phagon* 1215 *Fuslee*), Khuluk Sing, father of one of the plaintiffs, calling himself *zemindar* of *Mouzah* Mundoly, presented a petition to the Collector for the settlement, and the Collector (on the 15th February, 1808,) passed an order rejecting the petition of Khuluk Sing, and ordering the settlement to be renewed with Khuleel Khan as *zemindar*, neither Khuluk Sing nor any other of the plaintiffs instituted a claim to the *zemindaree* in the *Zillah* Court during a period of 13 years. After a lapse of 20 years, therefore, during which the defendants and their ancestors had possessed the *zemindaree* and paid the revenue of it, the plaintiffs at the same time occupying lands in the village, and paying rent to the defendants and their ancestors as under-tenants, it was considered unjust and not within the intention of Regulation I. of 1821, to dispossess the defendants and adjudge the disputed *zemindaree* to the plaintiffs, without full proof of their *zemindaree* title and of their possession of the *zemindaree* to the *Fuslee* year 1209, or rather till the settlement was made with Khuleel Khan in 1210; and such proof not being adduced, whilst at the same time there were documentary and other evidence (though certainly less complete than should have been required if the defendants had been the party claiming possession) to establish the *zemindaree* purchase under the former Government alleged by the defendants, the Court dismissed the claim of the plaintiffs to the *zemindaree* of *Mouzah* Mundoly, providing at the same time that whatever rights and tenures the plaintiffs and their ancestors may have held in the village as *mocuddums* or *kishtkars*

(cultivators), should not be affected by the present decree relative to the *zemindaree*.

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In the second suit (No. 17) Sheo Lal, during the life of his father, Dhokul Sing, claimed the village of Doorgadaspoor as his hereditary *zemindaree*, and endeavoured to prove his title by fabricated documents; but in the concurrent opinion of the *Mofussil* and *Sudder* Commission, his claim was not established: on the other hand, from documents exhibited by the defendants, as well as from the evidence of witnesses named by both parties, the disputed village appeared to be the ancient *zemindaree* of Bhoj Lal, Agurwalla, ancestor of the defendants, who was present and occupied it till the *Fuslee* year 1185, when it was ruined by the oppressive conduct of an *amil* under the former Government, named Seetulpershad. There was also some documentary evidence of Bhoj Lal's having been in the actual possession of the village as late as the *Fuslee* year 1193; and although no settlement had been made with him for some years before the change of Government, or subsequently till September, 1809 (when the quinquennial settlement was concluded with him as *zemindar* by order of the Board of Commissioners), this did not preclude the admission of his *zemindaree* right under the circumstances above stated, or warrant the dispossession of his heirs in favor of the plaintiff without proof of a clear and valid title. The Court, therefore, dismissed the claim of the plaintiff (which, moreover, was irregularly brought forward during his father's life without the latter's being joined in it) to the *zemindaree* of the village above mentioned, but provided (as in the first case) that whatever rights in a *mocuddumee* or *kistkaree* tenure may have hitherto been possessed in the village by the plaintiff or his father, should not be affected by the present decree.

The *Mofussil* Special Commission having left the District of Cawnpore, and the Court not being apprised of any dispute between the parties in either of the above cases concerning the *mocuddumee* and *kistkaree* tenures possessed by the plaintiff, it was thought sufficient to declare in each decree that if any disagreement should exist between the parties on the rights of the plaintiffs in the tenures referred to which could not be amicably adjusted, the plaintiffs

would be at liberty to prefer their just claims on this account in the *Zillah* Court.

I am not sensible that this part of our decision, under all the circumstances above mentioned, was inconsistent with the Regulations which have been enacted for the guidance of the *Sudder* Special Commission, unless it be considered at variance with the spirit and intention, though not with the letter and expressed provisions of the 7th Clause, of Section 3, Regulation I., of 1821, which directs that on adjudging the restoration of any person to the possession or management of the land claimed by him the Commission will invariably declare as distinctly as possible the nature and extent of the interests vested in such claimant, with a view to the restoration and future security of subordinate tenures.

As, however, the Right Honorable the Governor-General in Council, for the reasons stated in his Resolution of the 2nd instant, has been pleased to express a desire that the *Sudder* Commission will revise their judgments in the two cases referred to, after calling for such further evidence as may appear necessary, with a view to elucidate as far as practicable the real extent and nature of the interests possessed by each party in the lands of the village, “and especially the nature of the *mocuddumee* tenure, supposed to be vested in the plaintiffs, should be ascertained,” I see no objection to the revision desired for this purpose.

I may add, that it is the more incumbent upon the *Sudder* Special Commission to enter upon such a revision at the instance of the Executive Government, as it is provided in Section 10, of Regulation VII., of 1822 (for declaring the principles according to which the settlement of the land revenue in the Ceded and Conquered Provinces is to be hereafter made), that “of several parties, possessing separate heritable and transferable properties in any parcel of land, or in the produce or rent thereof, such properties consisting of interests of different kinds, it shall be competent to the Governor-General in Council to determine and direct which of such parties shall be admitted to engage for the payment of the Government revenue, due provision being made for securing the rights of the remaining parties.”

I only fear that it will be extremely difficult to make the minute investigation which the Government wish for through the *Mofussil* Commission, which is now removed to the District of Allahabad, and it may perhaps be requisite to employ a local *ameen* (or to depute an assistant to take evidence upon the spot) for this purpose

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[ENCLOSURE B]

MR PATON'S *Minute*

It appears to me that the chief object of Government in desiring a revision of the two cases in question is, that we may more fully ascertain and provide for the interests we have assumed for the plaintiff's possession in both the villages, by virtue of their *mocuddumee* tenure. We have already signified our ignorance of the exact nature and extent of the interests generally believed to belong to the *mocuddumee* tenure in the District of Cawnpore. In the second paragraph of the present Resolution of Government a positive definition is given of the existence in the Upper Provinces of two distinct classes of *mocuddums*—the one equal in rights and privileges to the *zemindar*, and the other as representing only a body of cultivators, but as we have not the same information before us as Government possesses, and as we are not aware upon what grounds or data this conclusion has been drawn we must claim the exercise of our own judgment founded on such documents or evidence as may have been adduced in the particular cases which come before us. I beg to observe that in several cases I have observed that the evidence given before the *Mofussil* Commissioners by many old and respectable inhabitants in Cawnpore, who must have understood the system adopted before our time, has induced me to believe that occasionally there were *mocuddums* of a higher order than the chiefs of a body of cultivators, and still inferior if not subordinate to the *zemindar*, or *sudder malgoosar*, although, in the absence of the latter, at times allowed to engage for the village in chief, but most probably these persons have been induced (to use the words of His Lordship in Council) "to shape their plea to meet the views exhibited by our Regulations, and the notions entertained by our officers."

It is highly desirable, both for our own satisfaction as well as that of Government, that the matter should be thoroughly sifted, for

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which purpose the *Mofussil* Commission should be called upon for further information and evidence in respect to the precise rights and interests of the plaintiffs; and should they in consequence of their having left Cawnpore meet with any difficulties or obstacles in the attainment of this object, they should report the circumstances for the information and further orders of the *Sudder* Special Commission, with any suggestion they may deem proper.

In order to make the *Mofussil* Commission fully acquainted with the nature of the further inquiry now ordered, I am of opinion that we should furnish them with copies of the correspondence which has passed between Government and the *Sudder* Special Commission on the subject, with copy of this and the Senior Member's Minute.

No. X.

SELECTIONS FROM CASES DECIDED ON APPEAL BY THE SUDDER SPECIAL COMMISSION.

1.—*No. 176 Appeal.*—RUHEEM KHAN, *plaintiff*, versus ROOSTUM ALI, *tehseldar*, SYED NASIR ALI, *devan*, ISHOREE SING, *canoongo*, *auction-purchaser*, *defendants*.

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Mofussil Special Commission, Cawnpore.

20th January, 1823—
Before Messrs. Christian
and Bird.

Sudder Special Commission.

20th April, 1824—Be-
fore Messrs W. Paton and
W. B. Martin.

* Present annual jum-
ma, Rs. 570.

tion sale of *Mouzah Pateepore*,* *Pergunnah Bhooneepore Moosanugur*. It is stated in the plaint that the village is the hereditary property of the plaintiff, and that the first settlement was made in the name of his grandfather, Dilawar Khan, at an annual *jumma* of Rs. 400; that the revenue of 1210 *Fuslee* was duly paid; that in 1211

Fuslee the *tehseldar*, Roostum Ali, at the instigation of Gungapershad Agunhotree, attached the village in question, together with other estates belonging to Dilawar Khan; and not only withheld the remission authorized to be allowed on account of drought, but embezzled the profits; that in the month of *Jeth*, 1212, Dilawar Khan died, and the plaintiff applied to the *tehseldar* and *devan* for an explanation of the accounts, but was refused; that the village of Pateepore was put up to auction at the instance of the aforesaid Gungapershad, the *canoongo's gomasta*, who purchased it for Rs. 5, in the name of the defendant Ishree Sing, son of Surroop Sing, the *canoongo*; that the estate was not in balance, and had been lost to the plaintiff by the intrigues of Gungapershad and Roostum Ali; that Surroop Sing, in his capacity of *canoongo*, signed the papers on which the estate was brought to sale, and that the sale was null and void under the provisions of Clauses third and fourth, Section 3, Regulation I. of 1821.

Defendants Roostum Ali and Nasir Ali gave no answer.

Defendant Ishoree Sing stated that for every thing connected with the attachment and sale, the Collector and *tehseeldar* were answerable; but from the public records it appeared that Dilawar Khan had several villages, and that *Mouzah* Pateepore was sold for the purpose of realizing the sum of Rs. 1,694-3-3 due from the whole, that it was purchased by him (the defendant) in full reliance on the validity of a public sale for the sum of Rs. 5; and that he was not at the time in any public office, or otherwise disqualified from purchasing; that the defendant had no concern whatever with Gungapershaud as stated by the plaintiff; and that as 14 years had elapsed without any complaint having been preferred by the plaintiff, the suit now instituted by him was in opposition to the Regulations.

From the records of the Collector's office it appeared that the balance was recommended for remission, and was not made good by the *tehseeldar*, at whose application the sale took place, as prescribed by Clause 5, Section 2, Regulation XXVII. of 1803; also that the sum of Rs. 5, for which the village was knocked down, was wholly inadequate: moreover Ishoree Sing, the purchaser, was the son of Surroop Sing, then *canoongo* of the *pergunnah*.

It appeared also that previous to the sale, the estate was let in farm, at a very reduced *jumma*, to Nehal Sing, the defendant of the aforesaid Surroop Sing, *canoongo*.

Under these circumstances, they decreed that the sale should be reversed, and the village be restored to the plaintiff on the payment of the purchase-money, and the rights of the other sharers were at the same time declared in conformity to Clause 7, Section 3, Regulation I. of 1821.

The parties were directed respectively to pay their own costs.

On appeal from the above decision by Ishoree Sing, the *Sudder* Special Commission confirmed it, dismissing the appeal with costs.

2 —No 189 Appeal —LALSAH, son of BUKHT SING, deceased, plaintiff, versus JULALOODDEEN HYDER KHAN, former *tehseldar*, CAPTAIN IMAM BUKHSH and MEER AHMUD ALI, defendants

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Mofussil Special Commission Cawnpore, 19th February, 1823—Before Messrs Christian and Bird.

Sudder Special Commission 27th April, 1824—Before Messrs W Paton and W B Martin
* Present annual *jumma*, Rs 495

THIS was an action brought to procure the annulment of the auction sale of *Mouzah* Tynpore,* *Pergunnah* Sarh, the village is stated to be the plaintiff's hereditary property, and to have been in the possession of his ancestors before the Cession, that the first settlement was made with Bukht Sing, the plaintiff's father, at an annual *jumma* of Rs 750, that the *jumma* was duly paid to the end of 1210 *Fuslee*, that in 1211 *Fuslee*,

the *tehseldar* Julalooddeen Hyder Khan, perceiving that the village was profitable, unlawfully attached it, and placed his servant, Ishoreepershad, to superintend the collections, that Bukht Sing was dispossessed, and the estate continued in the hands of the *tehseldar* to 1212, who embezzled the assets, that the amount authorized to be remitted on account of the drought of 1211 *Fuslee*, was withheld, that the estate was put up to sale, and though the plaintiff offered to pay up the balance, which was not justly due, yet the *tehseldar* being anxious to get possession of the village, refused all terms of accommodation, and the lands were sold without due publicity, that the *tehseldar* became the purchaser in the name of Ahmud Ali, son of Meer Mahomed Hussun, his *mookhtar*, for the inadequate sum of Rs 10, contrary to Section 3, Regulation I of 1821, and Regulation XXV of 1803, that he had been wrongfully deprived of his property, and had ineffectually attempted to sue as a *proprietor* in the *Zillah* Court, that Ahmud Ali, the nominal purchaser of the village, was only three or four years old at the time the sale took place, that if Captain Imam Bukhsh had really purchased a portion of the village for his son, Talib Ali, Ahmud Ali would not have been recorded as the sole proprietor, that Meer Mahomed Hussun procured that person's name to be inserted as a partner in 1819, and that a reference to the case of *Mouzah* Dowlutpore would develop the transaction

Julalooddeen attended in person on the 26th April, 1822, and stated that being very young, when the sale in question took place,

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he was ignorant of the circumstances of the case; and that his father managed the affairs of the *pergunnah*, of which he was nominally the *tehseldar*.

Captain Imam Bukhsh and Ahmud Ali in their answer pleaded that a balance of Rs. 728, after deducting the authorized commission for drought, was due from the plaintiff's father to 1212; that to evade payment he absconded, and the lands were in consequence regularly made over to Omrao Sing, his surety; that an *ameen* was deputed to take charge of them on that person's application, and Lalsah, the plaintiff, had himself embezzled the assets; that after a long absence he had lately returned to the village, and their agent, with a view to extend the cultivation, allowed him to settle; that the plaintiff's father having absconded, the Collector was compelled to sell the village at public auction, after the observance of the prescribed forms, for the recovery of the arrears due by him; that in consequence of the depreciated state of the lands, no person bid more than Rs. 10, and they were knocked down to Captain Imam Bukhsh for that sum, in the name of Meer Ahmud Ali; that Talib Ali, his son, being very young, he inserted the name of Meer Ahmud Ali in the public accounts, and at length took him into partnership; that in 1219 Talib Ali's name was recorded, being then of age; that they had experienced considerable losses in consequence of the neglected state of the cultivation, occasioned by the rackrenting of the plaintiff's father; that if such oppressions were practised as now alleged, it was extraordinary no complaint had been made on the subject to any of the established Courts; that the plaintiff's petition was not rejected by the Court; and the inadequacy of the auction price was attributable to his own oppressive and contumacious conduct; that the defendant, Captain Imam Bukhsh, was not employed by Government, or connected with any of its officers; that the purchase was made in 1806, and not liable to be rendered invalid by any Regulation not then in force; that the circumstances of the cases of Doultpore were not precisely similar; it was true that both villages were sold for the recovery of arrears, but there was a difference in the character of the parties—one was a defaulter, but the other, exclusive of being indebted to Government, robbed the *ameen*, which of course aggravated his delinquency.

The *Mofussil* Commissioners, after taking into consideration all the circumstances of the case, were of opinion that judgment should be passed in favor of the plaintiff for the following reasons :—

That there were strong grounds for presuming that the sale was brought about by the intrigues of the *tehseeldar*, in whose hands the estate was when a large proportion of the balance is stated to have accrued.

That the price, Rs. 10, paid for the purchase of the village at public sale, was obviously inadequate.

That the second settlement was made with Oomrao Sing, the surety, on reduced terms, without any arrangement having been made for the liquidation of the balance.

That Meer Mahomed Hussun, agent of the *tehseeldar*, Julalood-deen Hyder Khan, bought the lands in the name of his son, Meer Ahmud Ali, with whom the settlement was made, at a reduced *jumma* on his father's security.

Under these circumstances restitution of the village was decreed to the plaintiff on his paying Rs. 300 to the defendants, who were likewise to receive Rs. 200 from the Treasury of Government as compensation for the loss of the property.

The parties were severally directed to pay their own costs.

Captain Imam Buksh and Meer Ahmud Ali having appealed from the above decision, the *Sudder* Special Commission advertent to the circumstances of the balance having accrued under *his* management in 1212, although the year was a particularly favorable one, were of opinion that the balance, if really due, was caused by the fraud or misconduct of the *tehseeldar*: and as it was clearly proved that the agent of that officer has made the purchase fictitiously in the name of Ahmud Ali, his son, at a very inadequate price, they confirmed the decision of the *Mofussil* Commission as far as related to reversing the sale, but at the same time decreed, that the present occupant was not, under the circumstances above stated, entitled to receive Rs. 200 as compensation from Government; that part of the *Mofussil* decree was accordingly cancelled.

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3.—*Appeal No. 169.*—HEERA, *plaintiff*, versus GOORDUT SING,
son of BISHUN SINGH, deceased, defendants.

THIS was an action brought to procure* the annulment of the auction sale of *Mouzah Asdhunna*, Pergunnah Sarh. It is stated in the plaint that the village is the hereditary *zemindaree* of the plaintiff; that the first settlement was made with Rummun, father of the plaintiff, as *zemindar* at a *jumma* of Rs. 2,840, which, during the year 1210, was punctually paid; that in 1211 *Fuslee*, Julal-ooddeen Hyder Khan attached the village, and placed Mootee Lal, *ameen*, in charge of it; that, at the end of 1211 *Fuslee*, Rummun was sent to jail on the plea of a balance, although he had not been allowed to set foot on the estate during the whole year, and his property was distrained and sold; that in 1212 *Fuslee*, although the term of Rummun's lease had not expired, the estate was let in farm for four years to Bishun Sing, *chowdhry*, on reduced terms; after which, on the 4th of November, 1806, it was sold by auction to make good a balance for 1211, through the undue influence of the *tehseeldar*, and purchased by *Chowdry* Bishun Sing abovementioned, for the inadequate price of Rs. 190; that Bishun Sing had no previous claim to the *zemindaree* right: for had the village belonged to him, he would have engaged for it at the first settlement; that in 1211 the *tehseeldar*, in collusion with Bishun Sing, deprived the plaintiff of the management of the village, that if the usual compensation for drought had been allowed, and the decrease in the *jumma* given to him instead of the farmer, the necessity of a sale would have been obviated. Goordut Sing in his answer, pleaded that the village in question was his hereditary *zemindaree*, of which he retained possession till 1209; that the plaintiff and his ancestors were cultivators; and, if the proprietary right were vested in him, some mention regarding possession under the former Government would have been made; that in 1210 the defendant, with Soomer Sah and others, presented to the Collector an estimate of the resources of the *pergunnah* exceeding by Rs. 14,000 the statement prepared by the *tehseeldar*, which excited that officer's animosity, and he rejected the offers ten-

Mofussil Special Commission, Cawnpore.

7th February, 1823—Before Messrs. Christian and Bird.

Sudder Special Commission.

6th March, 1824—Before Messrs. Harrington, Paton, and Martin.

* Present annual *jumma*, Rs. 2,753.

dered by him, the defendant, for his own estates ; that the name of Rummun, father of the plaintiff, was improperly recorded as *zemindar* of the village in question, and the defendant deprived of his patrimonial estate ; that, after the *khureef* harvest of 1211, the father of the plaintiff embezzled the assets and absconded ; that he was neither confined, nor his personal property distrained ; that if he wished to prevent the sale, he ought to have complained to the Court in conformity with Regulation XXVII. of 1803 ; that the sum of Rs. 2,300 was due by the plaintiff's father for the year 1211, according to the accounts of Motee Lall, *ameen* ; that the lands were exposed to sale for the recovery of Rs. 1,300 after deducting the authorised remission for drought ; that Sheikh Hossein Ali, the *mookhtar* of Oomrao Sing, *tehseeldar*, intended to purchase them ; but the defendant, being anxious to prevent the alienation of his property, became himself the purchaser for Rs. 190 ; that he was not employed by Government, nor connected with any of its officers ; that Kishoreo Chund, a well known litigious character, had instigated the plaintiff to bring forward the present claim, and had secured his own succession to it in the event of the suit terminating favourably, having satisfied the plaintiff with a provision in the land and money.

It appeared to the *Mofussil* Commissioners, after a full consideration of the merits of the case, that the balance for which the estate was sold was apparently due from Rummun, the *malgoozar*, and that the sale was not brought about by the undue influence of any public officer.

The price paid for it was certainly small, and the balance accrued in a year of drought ; yet the defendant's hereditary title to the estate appeared preferable to that of the plaintiffs, and it was deemed improper, under all the circumstances of the case, to disturb the sale ; the plaintiff's suit was therefore dismissed, and the parties were severally directed to pay their own costs.

Heera Sing having appealed to the *Sudder* Special Commission, the case came first before the Second and Third Members, who, being of different opinions as to the judgment which should be passed, recorded them separately as follows :—

2nd Member.—It appears that Rummun, the *malgoozar*, admitted before the Collector a balance for 1211 *Fuslee*, to the extent of

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Rs. 1,301-9-1, for which, and for the further sum of Rs. 210-3-3, due from the *tehseeldar* in 1212 *Fuslee*, making a total of Rs. 1,511-13-0—the estate was sold on the 5th November, 1806. Notwithstanding, therefore, a remission of 8 annas on account of drought, it clearly appears that the above balance was due, and Rummun took no steps to liquidate it. Moreover, it does not appear, either from the documents or witnesses, that the said Rummun possessed the village prior to 1210 *Fuslee*, whereas the testimony of the defendant's witnesses proves the possession of Bishun Sing up to 1209 *Fuslee*. No undue influence would appear to have been exercised by the *tehseeldar* in bringing about the sale; and although the auction price is small, yet, under the above circumstances, the Second Member is of opinion the sale should be confirmed, and the decision of the *Mofussil* Special Commission upheld.

3rd Member.—Although the balance for which this sale was made was in all probability justly due, still as it appears to have accrued in a year of such uncommon drought and calamity, that even the Government officers, after allowing a remission of half the *jumma*, could not realize above one-eighth of it, the having recourse to a sale was inconsistent with the degree of lenity and forbearance which ought to have been shown to the *malgoozars* under such circumstances. Moreover, the *ameen* was sent by the *tehseeldar* to attach the village without the Collector's sanction having been obtained to the measure, in violation of the rules in Sections 14 and 15, Regulation XXVII. of 1803; and, although there is an order on the face of a petition of the *tehseeldar* purporting to convey the Collector's approval of his proceedings, yet it bears no signature of the Collector, and is consequently a suspicious document. Coupling the above circumstances with the inadequate price paid at the sale, and the subsequent reduction of no less than Rs. 710 in the *jumma* of 1210 *Fuslee*, it appears to the Third Member that the sale should be reversed and the village restored to the plaintiff; but as there does not appear to have been any collusion between the auction purchaser and the public officers, the former is considered entitled to receive, in addition to his purchase money from the plaintiff, the further sum of Rs. 1,000 as compensation from the Government Treasury.

The record of the case, with the above opinions, having been laid before the Senior Member of the *Sudder Commission*, he recorded his judgment thus —

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The balance of 1211 *Fuslee*, for which the village was sold on the 5th November, 1806, does not appear to have accrued from the neglect or embezzlement of the *malgoosar* Rummun, but from drought), which was such as to render it impossible for the Government officers to realize more than a very trifling proportion of the *jumma*. It appears further that a statement of balances due from this and other *mehals* in *Perginnah* Sunkerpore *Khass*, on account of that year of calamity, was forwarded by the Collector to Government and, on the 23rd August, 1801, an order was passed thereon that Government would remit the balances if the *malgoosars* would grant corresponding remissions to their *ryots*. As Rummun had been 18 months in jail on account of these balances, it cannot be supposed that he would neglect to avail himself of the above condition if duly advised of the orders of Government, and the sale of Rummun's *zemindaree*, subsequent to the issue of them on the 5th November, 1806, must therefore be deemed improper. Moreover, the price paid by the respondent—viz, Rs 190—is inadequate with reference to the *jumma* then fixed at Rs 2,130, and therefore, under Clause 2, Section 3, Regulation I of 1821, this sale ought to be reversed, and the village restored to the appellant on his repaying to the respondent the amount of his purchase-money. But as Bishun Sing, the respondent, appears to have purchased a legal title at a public sale, and no collusion is stated to have taken place between him and the public officers, he is—under the provision for such cases, made in Clause 2, Section 4, of the above mentioned Regulation—entitled to a fair compensation from Government. In accordance, therefore, with the opinion of the Third Member of this Commission, it is decreed that the decision of the *Mofussil* Special Commission be reversed, that the village of Asdunha be restored to the appellant on his paying to the respondent Rs 190, and that the respondent do receive from the Government Treasury the sum of Rs 1,000 as a compensation for being deprived of the benefit of his purchase, made at a public sale.

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4.—*Appeal No. 170.*—GOVIND, DYARAM, and BHUGWAN, *plaintiffs,*
VERSUS LUCHMAN SING, *heir of* OOMRAO SING, *tehseldar,*
ASHRUFFEE LAL, *auction-purchaser,* MAHOMED HOSSEIN ALI
KHAN, *present occupant,* and CHEDI LAL, and RAM BUKSH,
agents of ditto, defendants.

Mofussil Special Commis-
sion, Cawnpore, 1st July
1822.—Before Messrs.
Christian and Bird.

Sudder Special Commis-
sion, 20th March, 1824.—
Before Messrs. Harrington
and Paton.

* Present annual *jumma*,
Rs. 3,763.

THE action was brought to procure the annulment of the auc-
tion sale of *Mouzah* Boodhwan,* *Pergunnah*
Korah. It is stated in the plaint that the
village is the hereditary *zemindaree* of the
plaintiffs, and that the first settlement was
made with the late Deona, the plaintiff's
ancestor, who fully discharged the revenue
according to his engagements; that in 1213
Fuslee, the *tehseldar*, Oomrao Sing, perceiving the estate to be
profitable, had it attached of his own authority, and sent his servant,
Toorab Khan, to make the collections; that he embezzled the pro-
fits, and, in 1214, although no arrears were outstanding, he fraudu-
lently caused the estate to be sold by auction, without any previ-
ous advertisement, and bought it himself in the name of Ashruffee
Lal, his agent, for the inadequate price of Rs. 140; that Ashruffee
Lal had not the means to make such a purchase on his own account;
that the *tehseldar* subsequently caused Ashruffee Lal gratuitously
to make the estate over to Juwahir Sing, his own brother, and Bukh-
tawar Sing, his brother-in-law; that in 1217 the Collector directed
the *canoongoes* to give in a report of the case, and the fraud of the
tehseldar having been thus brought to light, and the circumstances
made known to the Board of Commissioners, he mortgaged the
estate to Bence Ram and Sheikh Sooleyman, and afterwards had
it sold by the aforesaid Juwahir Sing and Bukhtawar Singh to the
defendant, *Nawab* Mahomed Hossein Ali Khan; that the plaintiffs
could obtain no redress from the Collector, and were too poor to
institute a suit in Court.

The defendants, Luchman Sing, Ashruffee Lal, and Ram Buksh,
gave no answer.

Chedi Lal, on the part of Mahomed Hossein Khan, stated that
the latter knew nothing, either of the plaintiffs or of the auction.

purchasers; that, at the recommendation of Colonel Baillie, then Resident of Lukhnow, and with the consent of the *Nawab* Saadut Ali Khan, he purchased 16 villages, including the one in question, from Bukhtawar Sing and Juwahir Sing, for Rs. 30,025, and the transaction took place in the presence of Colonel Baillie himself: that the agents of both parties then proceeded to Cawnpore, had the transfer duly recorded by Mr. Newnham, the Collector, and possession was given to the defendant (Mahomed Hossein Ali Khan); that when the deeds of sale were drawn out and registered, Rs. 20,000 of the amount above-mentioned were paid to Sheikh Soleyman and Benceeram, to whom the 16 villages were mortgaged, and the remaining Rs. 10,000 to the aforesaid Bukhtawar Sing and Juwahir Sing; that notwithstanding the publicity with which the transfer was made, the plaintiffs never came forward to complain, and they have therefore no just right to the recovery of the property; that the defendant, Mahomed Hossein Ali Khan, in purchasing the estates, had no concern with anybody but Bukhtawar Sing and Juwahir Sing; that he had no conversation even with the *tehseeldar*, Oomrao Sing; and that he had been in possession nearly nine years since the date of the purchase.

The Commissioners having enquired into all the circumstances connected with the case, were of opinion that the auction sale and private transfers should be annulled for the following reasons:—

That the sale took place for a balance amounting to Rs. 615-4-3 stated to be due from Deena, *mocuddum*, and which accrued while the village was under the *tehseeldar's* management.

That the village was sold on a representation from the *tehseeldar* that Deena, although under engagements as *mocuddum* only, was in reality the *zemindar*.

That at the settlement of 1213 *Fuslee*, which took place previous to the sale, although Deena refused to engage because the annual *jumma* of the first settlement was required from him, yet the estate was let in farm to another person on reduced terms.

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Defendant Mahomed Hossein Ali Khan stated that he knew nothing either of the plaintiffs or of the auction-purchaser; that at the recommendation of Colonel Baillie, then Resident of Lucknow, and with the consent of the *Nawab* Saadut Ali Khan, he purchased sixteen villages, including the one in question, from Bukhtawar Sing and Juwahir Sing, for Rs. 30,025, and the transaction took place in the presence of Colonel Baillie himself; that the agents of both parties proceeded to Cawnpore, had the transfer duly recorded by Mr. Newnham, the Collector, and possession was given to the defendant; that when the deeds of sale were drawn out and registered, Rs. 20,000 of the amount above-mentioned were paid to Sheikh Sooleyman and Beneeram, to whom the 16 villages were mortgaged, and the remaining Rs. 10,000 to the aforesaid Bukhtawar Sing and Juwahir Sing; that notwithstanding the publicity with which the transfer was made, the plaintiffs never came forward to complain; they have, therefore, no just right to the recovery of the property; that the defendant in purchasing the estate had no concern with anybody but Bukhtawar Sing and Juwahir Sing; that he had no conversation even with the *tehseeldar*, Oomrao Sing; and that he had been in possession nearly nine years since the date of the purchase.

The Commissioners, after a full investigation of the case, were of opinion that the sale was illegal and collusive on the following grounds :—

That the balance in 1210 *Fuslee*, for which the estate was sold—viz., Rs. 1,706 4-3—accrued through the unauthorized and improper interference of the *tehseeldar*, Omrao Sing.

That the balance was not made good by the *tehseeldar* as prescribed by Clause 5, Section 2, Regulation XXVII. of 1803.

That the accounts, exhibiting the balance for which the sale took place, were received as authentic on the declaration of Ashruffee Lal, the auction-purchaser.

That the said Ashruffee Lal was the *tehseeldar*'s servant.

That Ashruffee Lal's surety was Sheikh Hossein Ali, the *vakeel* of the *tehseeldar*.

That two years after the sale the village was transferred to Juwahir Sing, the *tehseldar's* brother.

That it was afterwards sold, with 15 other villages, to the defendant, Mahomed Hossein Ali Khan, for Rs. 30,025.

The sale was accordingly reversed, and the village decreed to the plaintiffs on their paying Rs. 1,100, the price of sale, in part compensation: the present occupant, moreover, to be fully indemnified in the mode specified in Clause 2, Section 4, Regulation I., of 1821; the parties were directed severally to discharge their own costs.

On appeal by Mahomed Hossein Ali Khan, it appeared to the *Sudder* Special Commission that the attachment of the village by the *tehseldar* had been made without authority; and as the balance of 1211—a year of scarcity—had been paid up, it was presumable that the balance of 1212, for which the sale was made, could only have accrued through the intrigues of the attaching officers colluding with the *tehseldar*, who ultimately purchased the village in the fictitious name of his dependant, Ashruffee Lal: they therefore confirmed the decision of the *Mofussil* Special Commission, reversing the sale, and adding the provision in regard to the compensation to Mahomed Hossein Ali Khan, which was made in the other cases.

6.—April, No. 171.—SEWUK RAM, *plaintiff*, versus LUCHMUN SING, son of OOMRAO SING, *tehseldar*, ASHRUFFEE LAL, *auction-purchaser*, JUWAHIR SING, *private purchaser and brother of abovenamed OOMRAO SING*, and MAHOMED HOSSEIN ALI KHAN, *present occupant, defendants*.

THIS was an action brought to procure the annulment of the auction sale of *Mouzah* Madhoopore,* *Pergunnah* Koorah. It is stated in the plaint that the village is the hereditary *zemindaree* of the plaintiff; that the first settlement was made with the plaintiff at an annual *jumma* of Rs. 1,010 on the security of Jualal, *zemindar*; that the revenue of 1210 *Fuslee*

Mofussil Special Commission, Cawnpore, 27th June, 1822—Before Messrs. Christian and Bird.
Sudder Special Commission, 30th March, 1824—Before Messrs. Paton and Martin.

*Present annual *jumma*, Rs. 779.

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was duly paid ; that in 1211 *Fuslee*, there was a general drought, and although the plaintiff was willing to fulfil his engagements, and had given good security, yet Oomrao Sing, *tehseeldar*, attached the estate, and appointed Purm Sookh, one of his servants, to collect ; that no remission on account of drought was allowed ; that the attachment continued from the beginning of 1211 *Fuslee* to the end of 1212 *Fuslee*, and during the former year the *tehseeldars* reported to the Collector that the plaintiff had absconded ; that the plaintiff was deterred from coming forward by fear of the *tehseeldar* ; that at the second settlement in 1213 *Fuslee*, the *tehseeldar* fraudulently got the estate farmed to one Munsaram—a mere man of straw—and continued his own dependants in possession ; that some time after he caused the estate to be brought to sale for a fictitious balance alleged to have accrued in 1211 and 1212 *Fuslee*, while it was under his own management, and purchased it himself for Rs. 220 in the name of his servant, Ashruffee Lal ; that no previous advertisement was issued to give the plaintiff an opportunity of taking steps for the preservation of his property ; that the village was afterwards transferred from Ashruffee Lal to Juwahir Sing, the *tehseeldar*'s brother, by whom it was in the first instance mortgaged to Mahomed Soleyman and Benceram, and then sold to Mahomed Hossein Ali Khan, of Lucknow, who is now in possession.

The defendants, Luchmun Sing, Ashruffee Lal, and Juwahir Sing, gave no answer.

The defendant, Mahomed Hossein Ali Khan, stated that he knew nothing either of the plaintiff or of the auction-purchaser; that at the recommendation of Colonel Baillie, then Resident of Lucknow, and with the consent of the *Nawab* Saadut Ali Khan, he purchased 16 villages, including the one in question, from Bukhtawar Sing and Juwalir Sing for Rs. 30,025, and the transaction took place in the presence of Colonel Baillie himself; that the ^{part} of both parties then proceeded to Cawnpore, had the transfer ^{of the property} effected by Mr. Newnham, the Collector, and possession ^{of the property} handed over to the defendant; that when the deeds of sale were drawn ^{up} and duly recorded, Rs. 20,000 of the amount abovementioned were paid ^{to} by Sheikh Soleyman and Beneeram, to whom the 16 villages were ^{then} registered,

and the remaining Rs. 10,000 to the aforesaid Bukhtawur Sing and Juwahir Sing; that, notwithstanding the publicity with which the transfer was made, the plaintiff never came forward to complain, and he has therefore no just right to the recovery of the property; that the defendant, in purchasing estates, had no concern with anybody but Bukhtawur Sing and Juwahir Sing; that he had no conversation even with the *tehseldar*, Oomrao Sing; and that he had been in possession nearly nine years since the date of the purchase.

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The *Mofussil* Commissioners having enquired into all the circumstances connected with the case, were of opinion that the sale was collusive and improper for the following reasons:—

That the estate was placed under attachment by the *tehseldar* in 1211 *Fuslee*, without the authority of the Collector, and, consequently, that the *tehseldar* and not the plaintiff was responsible for the balance.

That in the year 1211 and 1212, during both of which the estate was in the hands of the *tehseldar*, the village collections of the former, though a year of drought, amounted to Rs. 1,035-15-9, and the produce of the latter was unaccountably estimated by the *tehseldar* at Rs. 890-1-0 only.

That by the *tehseldar's* own admission at the second settlement the outstanding balance was to be imputed solely to drought, and not to embezzlement or any misconduct on the part of the proprietor.

That at the aforesaid settlement the *tehseldar* procured engagements to be taken, contrary to the Collector's instructions, on reduced terms, from Munsaram, his own servant.

That the balance was recommended for remission, and not made good to Government by the *tehseldar*, as required by Clause 5, Section 2, Regulation XXVII. of 1803.

That Ashruffee Lal, the purchaser, was the *tehseldar's* servant.

That the village was subsequently transferred to Juwahir Sing, the *tehseldar's* brother, by whom it was sold, together with several

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other villages procured at auction in a similar manner, to the defendant, Mahomed Hossein Ali Khan.

The sale was accordingly annulled, and restitution of the village decreed to the plaintiff on his paying Rs. 220, the auction price, and the purchaser, Mahomed Hossein Ali Khan, to be indemnified in the mode specified in Clause 2, Section 4, Regulation I. of 1821: each party was required to pay his own costs.

And on appeal by Mahomed Hossein Ali Khan, the *Sudder* Special Commission, concurring in the propriety of the above decision, confirmed it, providing at the same time for compensation to be awarded to the appellant as in the preceding cases.

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FINAL REPORT OF THE MOFUSSIL SPECIAL COMMISSION ON THE DISTRICT OF CAWNPORE.

1.—From MESSRS. H. G. CHRISTIAN AND W. W. BIRD, *Commissioners, Mofussil Special Commission, to HOLT MACKENZIE, ESQ., Secretary to Government, in the Territorial Department, Fort William,—dated Allahabad, the 11th August, 1825.*

SIR,—We have the honour to submit, for the information of the Right Honorable the Governor-General in Council, a copy of our final report to the Sudder Special Commission on the District of Cawnpore.

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2. Since that report was despatched, a circumstance has come to our knowledge which places in a still stronger point of view the necessity of immediately adopting the recommendation contained in the 77 and 78 paragraphs, for rescinding Section 15, Regulation XXV. of 1803, which authorizes the private purchase of estates by Native Revenue officers, within the district to which they belong, and of rendering all such purchases liable to confiscation, on proof to the satisfaction of the Governor-General in Council, as in the case of similar acquisitions at public sale.

3. It appears to be fully established by documents which have come under our observation, that the Native Revenue officers of this district, or at least the Collector's *serishtadar*, Bhuwanneeden, has procured by private transfer, in the names of his relations and dependants, estates which have been actually restored by us under Regulation I. of 1821, and in which even Government were put to the expense of giving compensation on their restoration to the former proprietors.

4. His Lordship in Council may perhaps be disposed to think that so gross a violation of the respect due to the sentiments of Government is deserving of special notice, but since the object of the

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Regulation in question is liable to be defeated, if the property recovered from the descendants of former public officers should fall into the hands of the present, we feel it incumbent on us urgently to press the immediate enactment of a Regulation such as we have proposed, as the only means of effectually preventing so very undesirable a result.

5. We are aware that the payment of the compensation awarded by us must press occasionally hard upon individuals, who, from having been deprived of their estates for so long a period, can have no funds of their own to meet such a demand; but as it would be improper in all instances to restore the lands without requiring from the former proprietors either the balance for the recovery of which they were sold, or the price paid by the purchaser for the same, we would likewise recommend, in order to provide as much as possible against further abusive alienation of property by the application of a suitable remedy, that Government advance, in particular cases, the amount required, on good and sufficient security being furnished for its gradual liquidation.

2.—*From COMMISSIONERS, MOFUSSIL COMMISSION, to E. MOLONY, Esq., Secretary to the Sudder Special Commission—dated Fort William, the 1st July, 1825.*

SIR,—On the 24th of December, 1823, we were directed by you to submit, as soon as the cases then upon our file should be decided, a comprehensive report embracing the whole of our proceedings within the District of Cawnpore, and to accompany that report with an abstract statement of all the causes decided by us, drawn up in the established form.

2. We were subsequently ordered to rehear certain other cases, and, on the 2nd July last, the Junior Commissioner was desired to proceed to the Cawnpore District, for the purpose of making a local enquiry in regard to the rights and privileges of parties claiming as *mocuddums* to enter into engagements direct with Government for *Mouzahs* Mundowly and Doorgdaspore Kishoon, and to ascertain generally the nature of the *mocuddumee* tenure as it exists in that district.

3 By your letter of the 15th October following, the Junior Commissioner was further authorized, while prosecuting the above enquiry, to give his attention to the adjustment of *putteedaree* claims, and to expedite the execution of such other miscellaneous matters as circumstances might admit of

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4 The discharge of these several duties detained him from this station until the beginning of March last, and we now proceed to submit the result of his enquiries, for the information of the *Sudder* Commission

5 The whole of the regular suits, except one belonging to Cannore, having likewise been disposed of, we shall at the same time take a full review of the operations of the Commission from the commencement of our proceedings, as required by your letter of the 24th December, 1823, and report the whole of the information which these operations have enabled us to collect, in regard to the state of landed property in that district

6 In order fully to understand the various designations at present in use, and the rights, privileges, and interests which they respectively confer, it will be necessary to revert to the state of things which existed for a considerable space of time previous to the Cession, to note the duration of the several political changes which successively took place, and to trace, as far as may be possible the effect of those changes on the state of the agricultural community

7 It is hardly necessary to mention that these political changes were produced by the decline and consequent weakness of the *Moghul* Government. Our enquiries do not enable us to refer, with certainty, to an earlier period than the year 1137 *Fuslee*, but that period is sufficiently remote to answer every purpose connected with the points to be discussed. We find that from 1145 *Fuslee*, to the end of 1160, the district, or at least a considerable portion of it, was in the hands of Mohammad Khan Bungush, *Nawab* of Furruckabad, that in 1161 *Fuslee*, he was compelled to give way to the *Maharattas*, who continued in possession till the end of 1168 *Fuslee*, that in 1169 the authority of the *Nawab* of Furruckabad was restored, and remained in force until the middle of 1178, when it was again

superseded by the *Maharattas*, who in 1181 *Fuslee*, were finally expelled by Shoojah-ood-dowla, under whom, and his successors, the District remained until the Cession.

8. None of these different Governments, as far as we can judge, were actuated by the smallest concern for the preservation of rights in regard to land. Their sole object seems uniformly to have been to acquire as much revenue as possible, and no importance was attached to the *title* under which individuals contracted for the discharge of the public demand. These contracts were renewed annually, and so little regard was paid by the local authorities to designation, that in many cases the identical individuals who were denominated *zemin-dars* one year are recorded *mocuddums* of the same estate in another; sometimes they are found under both designations in the same year, and sometimes the names of persons recorded as in possession appear without any denomination at all.

9. *Village Maliks*.—Notwithstanding, however, these successive revolutions, the village *maliks*, the most valuable part of the population, or, to speak more clearly, the heads of the agricultural communities located in the different villages, appear, up to the acquisition of the country by the British Government, to have remained undisturbed. During that unsettled period, the *chowdries* and *canoongoes* of the different *pergunnahs*, as well as other individuals of wealth and influence, succeeded in procuring from time to time, exclusive of their hereditary estates, the superintendence of large *taloogs*, consisting of numerous villages, for the revenue of which they become responsible.

10. These *taloogs* were acquired in various ways, some by grants from the State, or through the influence of the local officers, others by fraud or force. In times of despotic sway subjects follow the example of their rulers, and the more powerful and wealthy landholders, anxious to increase their possessions, extorted from such of their neighbours as were weaker than themselves assignments of property, while the latter through fear, and often from the hope of personal protection, found it expedient to acquiesce in a temporary sacrifice of their rights, and were content to retain a footing in their estates even under a subordinate denomination. Except, therefore, in the por-

tion of the *talook*, the hereditary property of the *talookdar*, which formed as it were the *nucleus* of the whole, he will seldom be found to have retained the direct management.

11. Persons thus left in the occupancy of their lands, however denominated, cannot be considered *mocuddums* in the common acceptation of the term, although the nature of the duties to be discharged by them, and their relative situation towards the *talookdars*, seem to justify such a designation. Moreover, many of these persons are of high caste, which real *mocuddums* are not.

12. Towards the latter end of the reign of the *Nawab Vizier*, Almas Ali Khan discouraged the continuation of large *talooks*, and in numerous instances readmitted the village *maliks* to direct engagements. It does not, however, appear that on becoming again directly responsible to the State, the title under which they were recorded was considered by them of the smallest importance. The ruling power, as already stated, attached no value to names, as implying a recognition of rights, and its subjects may be supposed, under such circumstances, as far at least as the public records were concerned, to have been equally indifferent. The individuals in question, therefore, when admitted to engage directly with Government, were recorded sometimes under one designation, sometimes another, and not unfrequently retained the title of *mocuddum*, which in the first instance appears to have been applied to their ancestors, when the estates belonging to them were originally included in the *talooks* abovementioned.

13. *Mocuddums*.—From the concurrent testimony of the *canoongas* of Cawnpore, it is evident that the *mocuddum* is subordinate to the *zemindar*, is exclusively paid by him for the performance of certain duties connected with the village management; is appointed by him originally, and removable for alleged misconduct. But the persons examined qualify their depositions by declaring that a *mocuddum* cannot be dismissed from his situation nor his allowance of land, or money resumed, on any other pretext; and, in fact, where this office still exists, it is almost uniformly found to have descended in the same family. But the allowances are not transferable at the will of the *mocuddum*, nor are deeds of transfer of any description forthcoming.

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14. This office is by no means common to all villages, and it would appear from the evidence of the *canoongo* of Russoolabad, that it does not even exist in that pergunnah. It arose apparently out of the necessity in which non-resident proprietors found themselves placed of having a confidential agent on the spot, and is therefore confined, generally speaking, to villages in which the proprietors were originally under such circumstances.

15. Notwithstanding, therefore, the qualification in the depositions of the *canoongoes* above stated, it is obvious that the *mocuddums* must be considered in some degree dependant on their employers, and in case of sale for arrears, as liable to be immediately superseded. It cannot be presumed that an auction-purchaser should feel disposed to retain in his employ the confidential servants of his predecessor, with whom he may be at variance, and accordingly instances could be pointed out where such purchasers, availing themselves of the powers specified in Regulation V. of 1812, and the other enactments therein referred to, have discharged the *mocuddums* merely because it was not conducive to their interests to make use of them as agents in the village management.

16. In further proof that the term implies, generally speaking, a subordinate tenure, we have repeatedly found (though more frequently in Allahabad than in Cawnpore) that in cases of private transfer, the original proprietors stipulate to be employed by the purchaser in the superintendence of the cultivation, receive the name of *mocuddums*, and, like the latter, are remunerated by the new proprietor either in money or in kind. The amount of these allowances is fixed when the transfer takes place, and forms one of the implied conditions of the sale.

17. But although the term in its common acceptation, and, indeed, by the regulations of Government, is considered to denote individuals subordinate to the proprietor, yet in its literal signification it means "Chief" or "Head," and may therefore perhaps have been applied, in some parts of the country, to the managing proprietors, to distinguish them from the other members of the coparcenary. In *Pergunnah* Beesulpore, *Zillah* Bareilly, the term *zemindar* is not in use, and the whole of the villages are in the

hands of *mocuddums*, who from time immemorial have enjoyed the perquisites and exercised all the privileges denoting the retention of proprietary right. But this fact, we are inclined to think, may more naturally be accounted for by the supposition, that the villages in question were formerly in the hands of persons who acquired possessions as *talookdars* or *pergunnah zemindars*, and have since disappeared, while the character of *mocuddum*, which was then applied to the *maliks*, has under the general indifference above adverted to in regard to terms, continued to attach to them. Such individuals, notwithstanding their denomination of *mocuddum*, are obviously to all intents and purposes proprietors.

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18. If, therefore, the view taken by us be correct, the term is not made use of to describe the managing owner of a village, or the representative of a body of *zemindars* possessing an hereditary and transferable right of property, but has been *erroneously* applied to such owners, when the villages belonging to them respectively were originally incorporated into *talooks*, and although its application to owners so circumstanced does not in the least impair their rights, the term itself means only a subordinate tenure.

19. *Zemindars*.—The term, "*zemindar*" appears to be used in deeds of transfer, and generally in all law proceedings to designate "proprietor," but "landholder" was the only meaning, which, in common with other terms of similar import, it seems to have possessed with the former Government. If the Native powers considered all property in the soil to belong to the state, the *zemindar* could have been nothing more than an officer rendered responsible by certain engagements for the realization of the public revenue, and removable on the expiration of them; and this principle appears, indeed, to have been uniformly acted on. It was not until the accession of the British Government, that any right in the soil was declared to be vested in the *zemindars*, and hence the importance which has been since attached to that term.

20. On the Cession of the country to the British Government, the principle on which the Commissioners for the settlement of the Provinces ceded were directed to proceed, was, we believe, to take engagements for the public revenue from the persons who

might be found actually in possession of the land. But in Cawnpore this principle in many instances was not kept in view, and when it was, the original designation of the engaging parties were retained, designations which have since been proved in numerous instances to be wholly erroneous. In fact, the retention of these designations was fraudulently brought about by means of a statement prepared by the Native officers, which led to the exclusion both at the 1st, 2nd, and 3rd settlements of a great many proprietors, who till then had been in possession under the designation of *mocuddum*, on an erroneous idea adopted by the European authorities, that a person bearing that title could not be the proprietor.

21. The formation of this statement was attended with no difficulty. The local officers by whom it was prepared being in collusion with the *talookdars* and others desirous of becoming proprietors of land, took advantage of the confusion which existed at the Cession in regard to landed tenures, for the purpose of promoting the interests both of themselves and of those individuals. The village *maliks* satisfied with retaining possession, knew nothing perhaps of what was passing at the *Sudder* Office, nor, accustomed as they had been to the little importance attached to titles by the old Government, could they have understood that under the new one, a mere distinction in terms would, at a future period, be held sufficient to avoid inherent rights possessed by them immemorially.

22. This intrigue was attended with the following effect. To those who were disposed to avail themselves of the ignorance or fears of the village *maliks* it afforded the opportunity of entering at the first settlement into engagements with Government, under a title to which great importance had become attached, and it enabled those, to whom the present moment was less propitious, to come forward on a future occasion, when circumstances should afford a fairer prospect of success. The former course was resorted to in many instances, but the latter was generally adopted, apparently for the following reasons:—

23. The Government being new, they did not, it may be supposed, at first like to incur the risk of personal responsibility attached to defaulters, and, at the same time, expose themselves to the loss

likely to result from the dissatisfaction of the village *maliks* at being deprived of the advantage of entering into direct engagements. They might likewise apprehend that, if so great a mutation of property was to take place at one time, the real owners would combine to defeat the scheme. Moreover, the proclamation at the Cession, though it precluded all retrospection in regard to criminal cases, allowed a period of 12 years for the cognizance of civil matters; they might therefore hereafter come forward, should the character of the new Government dispose them to do so, with less danger; while their immediate recognition as "*zemindars*" would facilitate their success when the time arrived.

24. Such was the state of things between those who contracted for the discharge of the revenue with the old Government, under the designation of *mocuddums*, and those by whom under the new they have been superseded throughout the District of Cawnpore. But in no part of that District have these transfers been effected to so great an extent as in *Pergunnahs* Akberpore, Shahpore, and Bhoogneepore Mosanuggur, which at that time formed but one *pergunnah*, and in the former of which are situated the two villages Mundowly and Doorgdaspora Kishoon, that have given rise to the present discussion.

25. It may be convenient to state, less, however, with a view to the two cases under consideration than to the cases generally which have come before us in the *pergunnahs* in question, that on acquisition of the country by the *Nawab Vizier* in 1181 *Fuslee*, to the middle of 1183, that *pergunnah* was under the charge of Rajah Himmot Bahadoor, who employed Sheo Sing, *canoongo*, the predecessor of Surroop Sing, as *amil*; that from the middle of 1183 *Fuslee*, to the end of 1184, it was in the hands of Hikmat Jung, commonly called Zyn-ool-abdeen Khan, and that from the beginning of 1185 till the Cession it was under the personal superintendence of Almas Ali, who let it to different contractors, the principal of whom were Rajah Seetul Pershaud, the aforesaid Zyn-ool-abdeen, Thakoordass, Gunga Pershaud Towaree, Surroop Sing, *canoongo*, Seetul Shookool, Khoob Chund, Meer Jaffur Ali, Zyn-ool-abdeen's son, and Bakur Ali Khan.

26. It so happened that the system of farming the revenue to large *talookdars*, as already described, prevailed to a greater extent in the *pergunnah* in question, than in any other part of the district. A considerable number of villages were in the hands of Khuleel Khan, grandfather to the defendants, Warzis Ali Khan and Koötub Ali Khan, in *Mouzah* Mundowly, and others were farmed by Bhujoo Lall and Kishen Pershad, the alleged proprietors of *Mouzah* Doorgdasspore Kishen. Besides many other persons whose names it is unnecessary to specify, the *canoongos* of the *pergunnah*—of whom there were four, namely, Surroop Sing abovementioned, Utehroo Mull, Puddum Sing, and Mohkam Sing—were in possession at different times of considerable *talooks* ; and in the year 1191 *Fuslee*, while this *pergunnah* was in the hands of Thakoordass, the number of villages in Bhoogun of which the discharge of the public revenue was contracted for by Surroop Sing, alone amounted to no less than 365.

27. It must not, however, be lost sight of that several of these *talookdars* had certain hereditary estates of their own, exclusive of those which had been acquired in the manner above described, and the point of difficulty in all these cases is to distinguish the one from the other. It should also be kept in mind that the parties designated *moocuddums* reject in all cases every pretension to *moocuddumee* right. They maintain that, whatever those rights may be, they have no claim to them ; that they are not agents, but principals : not tenants, but landlords. In deciding, therefore, on the right of property, any reservation in favour of subordinate interests, to which the claimants have no pretension, would appear to be superfluous. The question solely at issue in the two cases under consideration, and in all others brought before us on the grounds of error of record, is simply to which of the two parties the property in dispute belongs ; for if the plaintiffs be not the proprietors, they must be merely cultivators.

28. *Mouzah Mundowly*.—In the case of Mundowly, the claim of the plaintiffs is entirely founded on the grounds of hereditary right and long possession. They state that the village was under their sole management at the Cession, and that the Khan Khanan, the defendant's father, being proprietor of Bara—a village situated in

the same *pergunnah*, only a few miles distant,—was able, through the influence of the *Tehseeldar* Taj ood deen Hossain Khan, to get himself clandestinely recorded as proprietor, that being unacquainted with the new rules, and left in the undisturbed management of their estate, they thought it imprudent to doubt the verbal assurance of the *tehseldar* that their right to it had been recognized or to object to his selection of Khan Khanan for their surety, that they continued to discharge the revenue direct to Government until 1215, not suspecting that any plan had been secretly laid to defraud them of the property, when to their astonishment they were dispossessed on the plea that Khan Khanan had all along been under engagements for the revenue, and that he was recognized by Government as the real proprietor

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29 On the other hand, the heirs of Khan Khanan assert that the plaintiffs are merely cultivators, and have neither any right to the estate, nor were ever in possession of it as proprietors, either before or after the Cession, that it was the defendants' hereditary property, and had originally been sold by their ancestors, Fyz Khan, Mirza Khan, and others, in the year 1148 *Hyri* (1140 *Fuslee*), for Rs 1,001 to Yakoo Khan, Affghan, of Furruckabad, whose adopted son, Kam Buksh, transferred it in 1200 *Hyri* (1193 *Fuslee*), for Rs 201 to Khan Khanan and Meer Shere Ali, whose share subsequently became by purchase the property also of Khan Khanan, that at the Cession the settlement had accordingly been made with the said Khan Khanan as proprietor, and that except during the defendant's minority, when the estate was under the charge of the Court of Wards, *their family had been ever since in undisturbed possession*

30 The defendants do not state that the plaintiffs are *mocudums*, or that the latter ever received from them any allowance for such service. They maintain that the said plaintiffs are merely cultivators, and deny their right to be acknowledged in any other capacity. The basis of the claims of the two parties being therefore clearly laid down, it was only necessary to ascertain when their respective occupancy commenced and terminated up to the date of the Cession, which of them, during the said occupancy, exercised the privileges and enjoyed the perquisites indicating the

remains of proprietary right; and when the estate was under *kham* 'shah' which retained such of those privileges and perquisites as were not wanted by the public officers.

31. For this purpose every man in the village and neighbourhood was examined, whose evidence was supposed likely to throw light upon the subject. By these examinations it was proved that the *khudais* and their ancestors had resided in the village from time immemorial: that they had frequently contracted with the State for the payment of the public revenue: that when it had been leased to others, or under *khom telseel*, their agency was made use of; and that in the latter case they exercised the privilege of granting *chillari* lands, planting gardens, and received from the villagers those perquisites which denote that they were looked upon as the proprietors of the soil. Even the quantity of land, amounting to no less than 265 *bogahs*, which was proved to have been in their immediate cultivation at the Cession, indicated them to be some thing more than *rauts*.

32. Still, however, the evidence above stated was not altogether sufficient as to their right of property. The villagers might be suspected of feeling a natural bias in favour of the plaintiffs, especially as they are mostly of the same class, nor could the exercise of the privilege of granting waste lands and planting gardens be held conclusive, as the same privilege was uniformly exercised by all who expected for the public revenue, and is so even to this day, although ancestrally prohibited. It did not, indeed, appear that the defendants' public relations had ever resided in the village, or had contracted for the previous to the sale for more than two or three years at any time previous to the sale, and then not later than 1194 *Fuslee*; yet many people came forward to swear that they were themselves in possession of gardens which had been given them by the defendants' family. In fact, gifts had been given them by the defendants' donor's title, are considered such a nature, whatever may have been the benevolence or charity, and in this part of the country as acts of mere temporary occupant. They seldom resumed, although made by a

33. It became desirable the
and by means of authentic document, before to ascertain with precision,
if possible, whether for a series

of years previous to the Cession, the public revenue had been paid to the State direct by the plaintiffs, or through the medium of the defendants' ancestors, and to determine, which could not satisfactorily be done by oral testimony, the question of possession. The defendants' title being founded on a deed of sale executed in 1193 *Fuslee*, by Khan Buksh, in favour of their ancestors, it was necessary to discover whether the names of the said Khan Buksh, or his father, Yak'ob Khan, or of Fyz Khan and others, from whom the latter is said originally to have derived the estate, were to be found in the public records.

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34. The only documents for this purpose were in the *dufters* of the *canoongos*. The *canoongos*, who had been examined, had certainly deposed in favour of the plaintiffs; but their predecessors had attested the statement of landed property originally furnished by Taj-ood-deen Hossein Khan, the *tehseldar*, in which the village was certified to be the property of defendants' father; and the *wasil-bagees* produced from all the four *dufters* exhibited merely the state of possession, at broken periods, and for a very few years previous to the Cession, and were consequently inconclusive and unsatisfactory. The declarations of these officers upon oath could not, for the reason above assigned, be depended on: but their records, if procurable, drawn up as they must have been long previous to the frauds and intrigues which led to the erroneous recognitions now in dispute, would speak for themselves.

35. One of the *canoongos*, Girdharee Lal, could produce no records at all. He had been three years in office, but had none of the papers of former years belonging to it. On the death of his predecessor, Kurukrai, *Mussumat* Moona, the widow of the latter, instigated by her brother, Rameshur, refused to give up the public records to Girdharee Lal, or to Muddaree Lal, his *mohurri*, her husband's nephew and heir; and as neither she nor her brother understood Persian, in which the records are written, she was obliged to appoint an agent, named Mohnn Lal, in order to turn them to advantage. This man we had already examined in the case of *Mou-zah* Doorgdaspore and other villages, but could get little information from him, as his excuse for the non-production of papers inva-

riably was, that he was merely an agent, and had nothing to show but what was delivered to him for the purpose.

36. By Section 9, Regulation IV. of 1808, it is expressly enacted that, on the death of a *canoongo*, the records of this office shall be delivered up to his successor, and the public authorities are enjoined to interpose to enforce the surrender of these documents. We had already, when at Akberpore in the month of December, 1821, sent our *nazir* in person to the widow to request her to deliver them up, but she evaded compliance with our requisition. It was therefore necessary either to remain silent under the refusal to allow the Commission free access to the records in question, indispensable as it was to the ends of public justice, or to have recourse to coercive measures.

37. It was not merely the rights of the contending parties in *Mouzah* Mundowly which were left in doubt by the retention of these papers, but the rights also of every party in the numerous estates situated in Akberpore, Shahpore, and Bhognapore Mosanuggur, where error of record was alleged to have been committed. Nothing, indeed, could be more uncertain than the nature of landed tenures in those two *pergunnahs*; an uncertainty which the operations of the Special Commission had in a great degree failed to clear up for want of the records alluded to. In short, as little reliance could be placed on oral testimony after the lapse of so long a period, the absence of them was an inconvenience felt almost in every case.

38. Even while the Junior Commissioner was in the act of making the further inquiry directed in *Mouzah* Doorgdaspoore Kishon, a question arose as to the fact of that village having been once a dependency of *Mouzah* Betowly, which could only be solved by the information contained in these records (as it subsequently was on their recovery); but the *tehseeldar*, on reference being made to him, stated that having been hitherto unable to obtain access to the *moazinehs*, he could afford no information on the subject. Under all these circumstances, the Junior Commissioner deemed it incumbent on him, after concluding the further investigation of the latter case, to take those steps which were necessary to enforce their restoration to the public authorities without delay.

39. Being fully satisfied by declaration on oath to the fact, that they were actually in *Mussumat* Moona and her brother Rame-shur's possession, he issued an order on the 4th of January to the *nazir*, to afford Girdharee Lal, the *canoongo*, the necessary aid in obtaining restitution. The latter, together with Muddaree Lal, accordingly proceeded to the late Kurukrai's house, at 10 o'clock in the forenoon, in company with the public officers and others deputed for the purpose, where the records in question were found and recovered for the public service.

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40. Having been long secreted, however, and made use of, as will be shown in a subsequent part of this report, for fraudulent purposes, they were of course in a state of great irregularity. By the aid, however, of such of the *canoongos* of other *pergunnahs* as happened to be in attendance, superintended by the *tehseeldar*, whose exertions merit the highest commendation, the papers were speedily arranged at very little expense, and will be found to contain a body of information in regard to tenure, as well as to the extent and value of estates, not to be met with in the records of any other *pergunnah* in the district of Cawnpore.

41. The recovery of these records was also attended with another advantage. As soon as they had been arranged and deposited under the charge of Kurukrai's successor, Girdharee Lal, Ishoree Sing, the son of the late *Canoongo* Surroop Sing, already alluded to, came forward of his own accord and offered to give up the whole of his papers, if they might be arranged and restored to him in the same manner. This offer was accepted. The records were found as valuable as Kurukrai's, and from these two *dufters* have been prepared the *nukshahs* or statements marked 2 and 3 in the Appendix, showing the state of possession in Akberpore, Shahpore, and Bhoogneepore Mosanuggur, until the Cession, which will be of great use to refer to in all cases similar to those of Mundowly and Doorgdasspore Kishon. It were desirable that the state of the *canoongo's* office generally admitted of such *nukshahs* being prepared in all the *pergunnahs*.

42. Among Kurukrai's records were found some documents which serve to elucidate, in a great degree, the process by which so

many proprietors have been deprived of their estates through means of erroneous recognition. It has been mentioned in a former part of this report, that at the Cession a statement was prepared by the *tehseldars*, which became the means of excluding numbers of individuals from the possession of their hereditary property. Of this statement (which according to evidence considered unquestionable was drawn up in the *pergunnahs* referred to by the *Tehseeldar* Taj-ood-deen Hossein Khan, in collusion with Surroop Sing, *canoongo*, his *Gomashtas* Gungah Pershad and Heera Lal, Kurukrai, *mohurrir*, Sectul Shookool, *talookdar*, Hajee Mahomed Yasseen, and others, themselves speculators in landed property) a copy was found among the records in question.

43. There was also discovered in a separate book, an account of every estate in this *pergunnah*, in which the persons under engagements were paid a *nankar* allowance by the former Government, and accordingly the plaintiffs in *Mouzah* Mundowly are recorded as being in the annual receipt of Rs. 50 from the year 1202 *Fuslee*, though they retain, like many others, the designation of *mocuddums*, probably for the reasons already assigned by us in the 10th, 11th, and 12th paragraphs of this report.

44. In the *wasilbakees* the plaintiff's family are recorded as having been in uninterrupted possession from the year 1194 *Fuslee*, to the Cession, and previous to the year 1193 as far back as 1150 *Fuslee*—sometimes as *zemindars* and sometimes without any designation at all. It does not appear that they were ever denominated *mocuddums* until the year 1202 *Fuslee*, and then only in the settlement of *nankar*, and not in the *wasilbakees*, where 1202, 1207, and 1209 *Fuslee*, they are designated *zemindars*.

45. But from none of the records, either in Kurukrai's or Surroop Sing's *dufters*, extending as far back as 1137 *Fuslee*, does it appear that Kam Buksh ever contracted, even for the payment of the public revenue, nor that Yakooob Khan, of whom Kam Buksh is said to have been the adopted son, and who is stated to have purchased the estate from F. Khan and others in 1148 was *hijri*, even in possession under the said deed of sale; nor, indeed, is there any trace of Fyz Khan, &c., unless they be supposed connected

with Uzeez-ool-lah, who, in the year 1145 *Fuslee*, when his relation, the *Nawab* of Furruckabad had usurped possession of the district, contracted for the revenue of 30 villages, of which *Mouzah* Munday was one, in capacity of *talookdar*.

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46. It is obvious, therefore, that the designation of *mocuddum*, under which the plaintiffs were recorded at the Cession, was fraudulently retained by the *tehseeldar* for the purpose of serving Khan Khanan, who had never been in possession, and whose title, as already shown, was derived from an individual never seen in the estate, who in 1193 *Fuslee*, executed a deed of sale in favour of the said Khan Khanan, and one Shere Ali, whose brother, Meer Hyder, was, as appears from the evidence, in the service of Almas Ali Khan as a *sowar*, and contracted for the public revenue in that and the following year.

47. No person, we are of opinion, claiming like the defendants under a derivative title, deserves to be attended to unless he can prove possession, and establish, moreover, that the title was first derived by fair purchase from the family of the original proprietors, who shall have been at the time of making the transfer in actual occupancy. No such plea having been made out in this case, we continue to think that the village belongs to the plaintiffs, and we will only further add that, as the defendants appear to have acquired possession at the Cession by means of fraud and the official influence of the *tehseeldar*, we no longer consider them entitled to the compensation which was originally proposed by us chiefly from an idea that the plaintiffs had voluntarily relinquished their rights to the defendants.

48. In the case of *Mouzah* Doorgdaspora Kishoon, in which further inquiry was likewise directed, the Junior Commissioner also proceeded to the spot, and found it to be a small village containing about 30 inhabitants, close to *Mouzah* Bitowly, of which it is now stated by the defendants to have been originally a dependency. From the inquiry it would appear, and indeed the plaintiff himself does not deny, that his family originally belonged to *Mouzah* Dugraha, in the neighbouring *pergunnah* of Russoolabad, whence they emigrated some generations ago, and formed the village out of waste lands adjoining to *Mouzah* Bitowly. But there are no grounds for sup-

posing that Doorgdaspoore Kishoon has ever been a dependency of that *mouzah*; for in the *moazineh* discovered among Khurukrai's papers referred to in the 38th paragraph of this report, which are proved to be more than a hundred years old, it is entered as a separate estate. Moreover in the year 1185 *Fuslee*, when Kishoon Pershad, brother of Bujoo Lal, of whom the defendant Hursuhai is the adopted son, sold *Mouzah* Bitowly to Sectul Shookool, the village of Doorgdaspoore Kishoon was not sold with it; but according to the defendant's statement, was abandoned, and from that date to 1216 *Fuslee*, with the exception of those years in which the revenue was contracted for by strangers, remained in the undisputed possession of Dhowkul, the plaintiff's father.

49. In the *wasilbakces* of the *canoongos* Dhowkul is recorded as being in possession of the village as far back as the year 1178 *Fuslee*, but in 1145 it formed part of the *talook* of Balgobind, Bhujoo Lal's ancestor. In 1170 *Fuslee*, the revenue of this and other villages was contracted for by Kishoon Pershad, another relation, as *talookdar*, and in 1180 by Bhujoo Lal himself. That Bhujoo Lal or his ancestors were ever acknowledged in any other capacity, or acquired the property by inheritance, purchase, donation, or any fair title, the defendant, Hursuhai, is unable to prove, and it does not appear that until the year 1216 *Fuslee*, when the settlement was made with the defendants by the orders of the Board of Commissioners, the village had ever been under his management either directly or indirectly.

50. In the year 1188 *Fuslee*, Dhowkul contracted as *zemindar* for the public revenue of Doorgdaspoore Kishoon, on the security of Khulluk, the former proprietor of Bitowly, whose ancestors, it is rumoured, sold the latter estate a long time ago to the ancestors of Bujoo Lal. In 1210 *Fuslee*, Mohun Lal, the brother of Sookoo Lal, by whom *Mouzah* Bitowly was purchased in 1185 *Fuslee*, from Bhujoo Lal, was surety for Dhowkul, and recognizes him as the *zemindar* of Doorgdaspoore Kishoon; and the inhabitants of the village, as well as the individuals sent for to give evidence from the adjoining estates, depose to the same effect.

51. It does not appear that he received any allowance of *nankar* from the former Government, but previous to the Cession, when the

village formed part of a *talooka*, the revenue of which was contracted for by Dhurmdoss *canoongo*, he received from the latter a grant of 10 *beegahs* of rent-free land, which has never been resumed ; and to this circumstance, together with the intrigues of Bhujoo Lal with the *Tehseeldar*, Taj-ood-deen Hossein Khan, it is probably owing that engagements were taken from him at the first settlement under the designation of *mocuddum mostajir* ; and that the Board, adverting only to the introduction of Bhujoo Lal's name in the column of proprietors, caused Dhowkul in 1216 *Fuslee*, to be dispossessed of the property. It does not appear from *wasilbakees* of the *canoongos* that in the former records he was ever denominated *mocuddum*.

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52. Under these circumstances, we deem it incumbent on us to state that his right to retain possession, of which he was unjustly deprived in 1216 *Fuslee*, until a better title can be proved, is in our opinion greatly strengthened by the recent inquiry. With respect to the defendant, his claim to the estate does not appear to us to rest on any solid foundation.

53. When persons denominated *mocuddum* are found for so long a period uniformly to have been in possession, and under direct engagements with the State for the payment of the public revenue, except on being obliged occasionally to give way to rich and favoured individuals ; when the same persons are also found to have been invariably employed by the public officers for realizing the public demand, and to have enjoyed the privileges denoting the retention of superior right ; and when in addition to these circumstances, they are acknowledged by all as the head of the village community, it is impossible to resist the conclusion that to such persons belong the right to the soil, and to the produce of it, under whatever diversity of designation they may have been recorded in the public accounts, especially when the Government for the time being was wholly indifferent to rights and denominations. At all events, clinging as they have done to their villages under every vicissitude of natural or political difficulty, they stand on much higher ground than those who never resided in them at all, who have no ties in common with the inhabitants, and who if they ever had any connection with the property, even as mere contractors for the payment of the public revenue, abandoned it when its retention was

no longer conducive to their interest. In the conduct of the one is to be traced all the features of a parent, and in the other all the characteristics of an alien.

54. In short, the results of our inquiries fully satisfy us that the revenue accounts for at least half a century previous to the Cession, are of use only to prove possession and not title; that the designation of *mocuddum*, under which at the Cession so many persons were recorded in the settlement books, originated to a certain extent in the reports of the public officers, drawn up with fraudulent and interested intentions; that the persons so designated in no respect correspond with the description given up of *mocuddums* in the common acceptance of the term, but are, in fact, the original proprietors, and that the appellation, as it appears in the settlement books, is consequently altogether erroneous.

55. Under all these considerations, we consider it to be fully established that in numerous instances throughout the district of Cawnpore, but especially in *Pergunnahs* Akberpore, Shahpore, and Bhoogneepore Mosanuggur, the real proprietors of estates have been considered by the British authorities as *mocuddums* and *mostajirs*, merely because under the preceding Government, when no regard was paid to rights, they were erroneously recorded in the *pergunnah* accounts under those designations. It is, moreover, established that even the Board of Commissioners, misled by the same error and trusting to the record founded on the Persian statements fraudulently drawn up at the Cession by the *tehseeldars*, not only sanctioned, but on the principle adopted by them of not disputing or questioning rights once recognized on whatever grounds, did themselves occasion in the years 1216 and 1218 *Fuslee*, many of those mutations, through which the real proprietors, who had previously engaged as *mocuddums* and *mostajirs*, were deprived of their property, in favor of persons who had never before been known to be in possession.

56. These errors are found to be very numerous, especially in the *pergunnahs* of Akberpore, Shahpore, and Bhoogneepore Mosanuggur. Many of these cases were not at first prepared from various causes, and in

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some instances, probably, from the difficulty of procuring satisfactory proof, but the discovery of the *canoongo* accounts, and the decision of the *Sudder Court* in the case of *Mouzah Beroree*, which the accounts in question serve to confirm, have encouraged many claimants to come forward, especially those who were ousted at the first settlement, and it is an object of importance to determine in what manner all these new claims are to be disposed of.

57. It has been already stated that Surroop, *canoongo*, was at one time in possession of 365 (*Uslee* and *Dakhlee*) villages. At the Cession, 139 were still in his hands, and at the first settlement he was recorded as proprietor of 40 separately assessed estates. It has also been stated that after the discovery of *Khurukrai's duffer*, his son, *Ishoree Sing*, delivered up of his own accord the whole of his records. His principal motive for hitherto withholding them appears to have been to conceal the fact that many of these villages, of which, by means of the fraudulent statement prepared in collusion with the *tehseeldars*, he was recorded as proprietor at the Cession, had been previously in his possession merely as *talookdar*. After the discovery in question, and the decision of the *Sudder* in regard to *Mouzah Beeree*, this concealment could no longer avail him, and he probably thought it prudent to make a virtue of necessity.

58. It is for the recovery of many of these villages that claims are now being preferred, and there is every reason to think that the claimants will find little difficulty in establishing their right. Indeed, *Ishoree Sing* is himself aware of it, and would be willing, we are inclined to think, to relinquish them for a fair and reasonable compensation. We are anxious, therefore, instead of taking up all these claims in the regular mode, to be authorized to treat with him on the subject, and to effect their restoration, if possible, by some arrangement that will not leave him altogether destitute or deprive him entirely of that consideration in the *pergunnah*, which his family have enjoyed for several generations.

59. Surroop Sing was originally a man of great wealth and respectability. As *canoongo* of the *pergunnah*, he enjoyed under a grant from the *Nawab*, *Assoophood Dowlah*, a *nanhar* allowance of

Rs. 2,400 per annum, that was resumed, we understand, on the enactment of Regulation IV. of 1808, by which all allowances of this description were abolished. He had, also, a valuable *jagheer* in *Pergunnah* Bhoognee, consisting of *Mouzahs* Ukkouree and Tee-ounga, which were likewise resumed after his death in 1224 *Fuslee*, and now yield to Government an annual *jumma* of Rs. 3,753.

60. We shall reserve what we have to say regarding the effect of that Regulation for a subsequent part of this report, when we discuss the subject of *canoongos* generally; at present we will only observe, that if we were authorized to restore the *jagheer* in question, or even a portion of it, on condition of his giving up such of the villages now in his hands as are not his hereditary property, we think that an arrangement might be brought about which would satisfy all parties.

61. Such an arrangement could not but be satisfactory to the claimants, inasmuch as it would effect the restitution of those estates without their having to incur the trouble and expense of regular prosecution. It could not but be satisfactory to Ishoree Sing, because in exchange for what he must otherwise in all probability lose without any compensation whatever, he would recover a valuable *jagheer*, to which, as an hereditary possession, he naturally attaches the greatest importance. It would be satisfactory to ourselves, because it would save much of our time, and relieve us from the pain of reducing a respectable family to ruin; and it could not but be satisfactory to Government, as affording an opportunity of doing, at very little expense, an act of justice and liberality.

62. Should Government be pleased to sanction the arrangement above recommended, we propose to conduct the negotiation with Ishoree Singh, either by sending for him to this place, or by one of the Commissioners repairing in person to *Pergunnah* Bhoognee during the ensuing cold season. In the meantime, we could procure such information as may be required respecting the estates claimed, and ascertain all the circumstances connected with the resumption of the *jagheer*, so as to be able, when the time for negotiation arrives, to act promptly and effectually. On the conclusion of our proceedings, we should report the result through you for the

orders of Government with whom the final decision on the subject would of course rest.

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63. We have now concluded all that occurs to us regarding the *mocuddumee* question, and we have given to it, as directed, the fullest and most careful consideration. Nothing we are aware of has been omitted that could facilitate our inquiries. We applied, as suggested in the 4th paragraph of your letter of the 24th April last, to the Collector of Cawnpore for such information and documents as his inquiries under the provisions of Regulation VII., 1822, might enable him to afford, but we received no answer. In fact, as those enquiries were not commenced until the beginning of the present year, he obviously could have no information to furnish. The application, which we informed you in the 2nd paragraph of our letter of the 10th July last, had been made to Mr. Valpy, was likewise attended with no effect. From Mr. Newnham we received a letter, of which, a copy is enclosed, and on parts of that letter it is necessary that we should submit a few observations.

64. In the 7th paragraph it is stated that Surroop Sing (the *canoongo* referred to so often in this report) applied to him, while forming the settlement of Cawnpore, for a deduction from the *jumma* of certain villages in his possession, under the head of *mocuddumee*; that he recollects tracing the tenure through the annual *jumma wasilbakees* of the former Government, in which a deduction from the gross *jumma* of Rs. 25 or Rs. 35 per annum was admitted on that account; and that it appeared to him to be a remuneration for the local duty of superintending the village, and had no reference whatever to right of soil, which was not claimed.

65. Mr. Newnham's inference, however, appears to us to be erroneous. The individuals styled *mocuddums* in Surroop Sing's villages, received for several years previous to the Cession, as appears from the *nankar* account discovered among Khurukrai's papers, an annual allowance of that description; but if, as supposed by Mr. Newnham, it had been a remuneration for the local duty of superintending the cultivation, they must have received it, not from the *Sirkar* but from Surroop Sing, and the latter could have had no grounds whatever for claiming from Government on that account

any deduction in excess of the *malikanah*. The ground of the claim itself, advanced by Surroop Sing, is conclusive proof that the individuals in question were not mere *mocuddums* in the common acceptation of the term. That they should have advanced no claim to the property is not surprising, as Surroop Sing had been recognized as proprietor, and such recognition was considered by the Revenue authorities, as an insuperable bar to the recovery of all such villages. Besides, the parties themselves may have been well pleased to remain in a subordinate capacity, and far from desirous of opposing such a man as Surroop Sing, or Gunga Pershaud, his agent.

66. As to the claims in Bedeck, alluded to in the 9th and 10th paragraphs of Mr. Newnham's letter, that estate is situated to the south of the Jumma and now forms part of the Collectorship of Calpee, but as the discussion was stated to have been recorded at some length, we procured a copy of it from the Collector, but it does not appear to us to throw any light upon the subject.

67. With regard to Sheerajpore, we are not disposed to consider the individuals alluded to in the 12th paragraph of Mr. Newnham's letter generally as *mocuddums*; that is, in the common acceptation of the term, much less that they were merely farmers. The subject, however, having been fully discussed both by Government and the local authorities, it is not necessary for us to do more than refer the *Sudder* Commission to the deposition of Bukhtawur Sing, *canoongo*, in which the whole of the particulars are clearly stated; and it is a remarkable fact, that the individuals in question were never styled *mocuddums* until the Cession, and can produce *pottahs* previous thereto in which they are denominated *zemindars*. They did not apply to us because they are still in possession and continue, in conformity to the orders of Government, dated the 25th September, 1823, under direct engagements. But these individuals are under circumstances differing widely from those who are denominated *mocuddums* in Akberpore Shahpore,, and Bhogneepore Mosanuggur, as certain hereditary privileges have been exercised over the former by the *Rajahs* to whose *talook* their villages respectively belong in virtue of *Badshahee sunnuds* for several generations, and to whom therefore they may be considered tributary.

68. We now proceed to the subject of auction sales. The Auction sales. Sudder Commission will have seen from the cases which have come before them in appeal, that little is left to say on this point beyond what was contained in our former report. We will nevertheless, as directed, take a general review of all that has been done in this as well as other branches of our proceedings within the district of Cawnpore.

69. The settlement immediately subsequent to the Cession was formed upon a highly rated estimate, considering that it was only for the short term of three years, and that those with whom it was made, had to contend with all the inconveniences inseparable from the introduction of a new Government. The revenue of the first year was paid, nevertheless, with extraordinary punctuality, so anxious were the people to retain their lands upon any terms; but the calamitous season of 1211 *Fuslee*, combined with the misconduct of the *tehseldars*, ultimately produced the greatest derangement throughout the district.

70. The *tehseldars*, as has been already stated, engrossed the entire revenue management, and vested as they also were with the Police, their authority was unbounded. They were in fact contractors for the public revenue, armed with every description of power to realize it by the most oppressive means from the landholders. It does not appear that at the period to which we refer, they were much checked by the salutary restraints of superior influence, or that in cases of an alleged arrear, any regular inquiry was made into its real existence or the liability of the defaulters. Under such circumstances it is not surprising that the authority exercised by them should have been perverted to purposes of personal aggrandizement the most unjustifiable, or that the operation of such a system should have been prejudicial to the people.

71. An endeavour was made to remedy or arrest the progress of the mischief, resulting from the drought of 1211 *Fuslee*, above alluded to, by authorizing large remissions or suspensions of revenue, but from the want of proper circumspection the object was not attained. On the contrary, the accounts confused, and instead of the sufferers being all

pation in the munificence of Government, there are grounds to believe that the *tehseldars*, in collusion with the *sudder amlah*, were guided in the distribution solely with a view to their own emoluments, thereby rendering the indulgence of Government in favour of the sufferers in question almost nugatory.

72. The balances which accrued afforded a pretext to the *tehseldars* to assume the management of the lands to the exclusion of the proprietors, who, in many instances, considered themselves by that procedure exonerated from further responsibility; and as the village accounts were neither adjusted, nor payment of the balance attempted to be enforced by the process of sale, until three years after they had accrued, there were certainly grounds for such a conclusion, especially as an intermediate settlement was made, in many instances on reduced terms, with the connections and dependants of the *tehseldars* and other public officers.

73. The arrears of the first settlement were retained on the public accounts, but for what reason does not appear, for if the reduced assessment allowed at the succeeding settlement of 1213 *Fuslee*, was fixed with reference to the capacity of the different estates, it is obvious that the revenue of 1210 had been over-rated, and it would have been more consistent with the spirit, if not with the letter of the Regulations, to have granted to the proprietors a further remission proportionate to the acknowledged deficiency of assets, than to enforce by sale the penalty of engagements to which the lands were confessedly inadequate, and which had been previously let on more favourable terms to nominal farmers, who were in reality the fictitious substitutes of public officers.

74. When in addition to these circumstances it is considered that the purchasers in most cases were likewise the public officers themselves under whom the said balances had accrued, and who in order to conceal these acquisitions had recourse to the substitution of fictitious names in violation of Section 14, Regulation XXV., and Section 9, Regulation XXVI., 1803, there are strong grounds for presuming that the estates were not unprofitable when brought to sale; that the balances, for which they were disposed of, were not generally attributable to any embezzlement or wilful

default of the proprietors ; and that had the latter been re-admitted to engagements in 1213 *Fuslee*, on the terms granted to the nominal farmers above-mentioned, those balances might have been discharged. Nor in the revocation of such sales under the provisions of Regulation I., 1821, have the purchasers the smallest ground of complaint, as they in general get back the full amount of the purchase-money, and retain unquestioned the whole of the profits intermediately enjoyed by them, to neither of which would they have been entitled under the provisions of the original code, in violation of which they have been proved guilty of making the purchases in question.

75. *Exclusive of the lamentable permutation of property to a great amount occasioned by the aforesaid measures, the resources of the country were materially injured, as must always be the case, with a sale of lands conducted on the principle set forth in Section 11, Regulation XXVI., 1803. It virtually annihilates the rights of the whole co-partnership ; while the former proprietors, by continuing to reside within the village, retain much influence, and the purchaser is exposed to the fatal consequences of their hostility, unless he employs them as agents in the superintendence of the cultivation, and makes some provision for their maintenance. In the former case the most serious affrays ensue ; the ryots abscond, the cultivation is neglected, and a permanent reduction of revenue becomes necessary ; and in the latter, the resources of the village have to sustain an additional charge, which is equally injurious to all parties.*

76. The punctual realization of the public revenue is no doubt of the greatest importance, but the object can be equally well accomplished by the adoption of measures more compatible with the habits, and less detrimental in their effects to the welfare, of the agricultural community, than auction sales. This system has, we understand, since the establishment of the Special Commission, fallen greatly into disuse throughout the Western Provinces, without any loss or inconvenience to Government being experienced therefrom. If, therefore, it may yet be too soon to strike at once "this harsh feature," as it has been forcibly described, "from the code of our Revenue Administration," still some further legislative

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enactment might be put in force, without the smallest danger to the realization of the public revenue, sanctioning the disuse in question, but as we have already stated our sentiments to Government on this point, it would be superfluous to say more on the subject.

77. It was not, however, solely by means of auction sales that public officers continued to become the proprietors of extensive estates; nor can this evil be finally put a stop to as long as they are able, under cover of the rules enacted for the collection of the revenue, to acquire by fraudulent contrivances, landed property to an extent through private transfers. We, therefore, recommend that Section 15, Regulation XXV., 1803, by which a native revenue officer is authorized to purchase at private sale the proprietary right in lands situated within the Collectorship to which he belongs, be immediately rescinded.

78. Such prohibition previously to the Cession of these Provinces was naturally in force at Benares. In the year 1794, a rule was published, bearing date the 19th of September, by which it was declared that the *amils* in that Province “having clandestinely availed themselves of their authority to procure deeds of conveyance in their own names, or those of their relations, for lands the property of persons in arrears on account of the revenue, and whose balances had thereby been either wholly or partially liquidated, such deeds were to be held null and void;” and on the 30th of October following, a further order was issued, authorising “all persons who might have thus disposed of their lands, or their heirs or *putteedars*, to sue for the recovery of them in a Court of justice at any time within five years from the date of such conveyances; and the parties prosecuting were declared entitled to have the conveyances annulled, and to regain possession of the property on re-paying to the purchasing *amil*, or his heirs, the purchase-money with simple interest.” The measure, therefore, which we recommend is not only sanctioned by precedent but seems to be the only one by which frauds and abuses can be effectually prevented.

79. It is hardly necessary, after all that has been said on the subject, to relate any further evidence of the injurious effects on

the public prosperity with which these acquisitions were attended, but we deem it right to record what we know from personal observation and familiar intercourse with the people, namely, that in most of these villages the dilapidated state of these houses, and the impoverished appearance of the inhabitants, loudly proclaim the rapacity of the purchasers. But the villages of which the ancient proprietors have managed to retain possession often exhibit a very different aspect, and the Junior Commissioner in his late deputation to Cannore had occasion to remark the exultation with which the owners came forward to boast of the sacrifices they had submitted to rather than relinquish their paternal inheritance.

80 One most serious and extensive evil has, however, arisen from these sales and transfers, not likely to be immediately removed by the annulment of them, namely, the virtual annihilation of all *putteedaree* rights. *Putteedaree* Rights It happened, as is proved by the proceedings, that at the Cession, either in imitation of the course pursued by the former Government, or in order merely to save trouble and, perhaps, to simplify the business, the Settlement was made with only one individual, who was considered the representative of the rest. The land being also declared responsible for the public revenue, the property was brought to sale on his alleged default, and along with it, without any reference to themselves, were transferred the rights of all the other shroers who, by the enactment of the rule contained in Section 24, Regulation V, 1812, were effectually excluded.

81 These rights had never been publicly acknowledged or defined. The officers of the former Government having no view beyond the requisition of as much revenue as the country could be made to yield, never attempted to interfere in the adjustment of private right. Questions of this nature were accordingly left to domestic arrangement, in which the strongest secured for himself the largest share. If, therefore, such a state of things became productive of no confusion, it was not that a scrupulous regard for justice secured each individual, by natural compact as it were, in possession of his fair proportion of property, but, because the weakest was obliged to give way to his more powerful adversary.

82. In fact, the differences arising out of these domestic arrangements, often, as is well known, led to the most bloody and fatal affrays, and it was only by the sword that a man, generally speaking, could do himself justice. The vigilance of the Police now renders recourse to this mode of maintaining rights rather a dangerous procedure; but it does not appear to have rendered them more disposed to be equitable towards each other.

83. Under these circumstances, it may be easily supposed, that the *putteedar* tenure, now that another generation has sprung up, is involved in considerable uncertainty, and that in proportion to the inconvenience resulting from the defects of the former system, and the increased value of property, are the eagerness and anxiety of the *putteedars* in general for a definition of their rights.

84. On the other hand, the former recorded proprietors, on being restored to possession, desire also restitution to all their former privileges. This, however, is a result against which the provision contained in Clause 7, Section 3, Regulation I., 1821, was obviously intended to guard. The definition of these rights is manifestly an object of primary importance, for the country can never attain its full measure of prosperity so long as they are unadjusted.

85. But in these cases the parties are so numerous, the rights of the claimants generally so minute, the title often times so difficult to trace, and the pretension of each so conflicting, that it is almost impossible to decide them satisfactorily without an investigation on the spot, where, by means of personal and immediate communication with all parties, and with the advantage of being able to follow up without loss of time the clues of evidence as they arise, the question may be sifted to the bottom and brought to a satisfactory issue. Differing as the *putteedars* all do among themselves, a decision passed upon an insulated claim, brought forward as a regular suit for a fractional part of an estate, by a single sharer, would never settle the dispute, and a mistake in the decision of any one of a series of such claims would lead to inextricable confusion.

To settle them effectually it is necessary to confront the various parties in the presence of the village community and the *pergunnah* officers, and after full inquiry to pass the decision before them all.

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86. It is therefore become indispensably necessary in order to accomplish this object, that one of the members of this Commission should annually be employed during the whole of the cold season on these inquiries, which as long as the opinion of both is required to be given in each case, regular and summary, cannot be done while there are only two Commissioners, without delaying every branch of the business before us to a very serious extent.

87. It appears to us that delay itself is a great evil. It excites litigation, and imparts a character of permanency to the Commission which does not belong to it. It affords time to those who wish to have their claims decided cheaply and expeditiously to practice all kinds of deception in order to render them cognizable, while the preliminary inquiries which sometimes become necessary, are productive of very great inconvenience. It is impossible to conjecture, as matters at present stand, when we shall have finished with this district. In the meantime the revision of the illegal sales and transfers, which have taken place in the district of Goruckpore is indefinitely postponed, and therefore important as the *puttee-daree* inquiries unquestionably are in every point of view, it is impossible for us to attend to them unassisted without a partial sacrifice of the primary object of our deputation.

88. Under the foregoing circumstances it appears to us to be necessary either that these claims shall be left to be disposed of by the Revenue Authorities at the approaching Settlement, under Section 9, Regulation VII., 1822; or that a third member be added to the Commission. Such an addition will allow of one Commissioner being always employed, when the season admits, in making local inquiries, while the other two are deciding regular suits; and time will therefore be saved without any increase of expense, because the business to be done will by that means be brought to a speedier conclusion, which to Government, and the parties concerned, must be equally desirable.

before us repeatedly in different shapes, we propose that such *puttedars* as have no good reason to assign for not coming forward before the original claim be decided, or may be proved to have entered into collusion with the defendant, shall be disqualified on either of those grounds alone, from recovering their rights through the medium of the Special Commission; and that written agreements between the original prosecutors and their *puttedars* executed previous to the decision of the suit, shall be declared invalid unless publicly produced at the time of execution or whilst the suit may be depending, and attested by us. Such a rule will prevent the arrangement from being a clandestine one, and be the surest way of securing to both parties, the recovery of their just rights. These agreements, unless entered into with intention to defraud, can receive no detriment from being executed in public, for the publicity itself will at once preclude the possibility either of delusion on the one hand or of the fabrication on the other.

95. In short the total want of true religious or moral feelings so glaringly manifested by all parties, whether plaintiffs, defendants, or witnesses, renders it a matter of increasing necessity that every transaction should be recorded and every right defined; for neither rights or interests can otherwise ever become really valuable or permanent. It is owing to the absence of such record that so much confusion has hitherto prevailed, and within this impression, we deem it necessary to bring under consideration the present state of the office of *canoongo* in these Provinces, as intimately connected with that important subject.

96. To this office the *Moghul* Government, especially during the reign of Akbar, when the revenue administration was so well conducted by Todarmul, attached the greatest value, and placed it upon a most efficient footing. The officers employed in it enjoyed very considerable emoluments, sometimes consisting of fixed allowances from the public treasury; sometimes of rent-free lands; and sometimes of a percentage on the collections. It may be taken for granted that under such a Government emoluments so considerable, would never have been allowed had not the office been found of the greatest utility.

In fact, the information to be acquired through the means of it, was so useful in promoting the grand purpose of constantly raising as much revenue as the country could possibly yield, that it was consistent with sound policy to fix the allowances of such officers on a liberal scale. Accordingly the ancient records of these offices are generally found to contain the most authentic data respecting the assessed *jumma*, the parties with whom the assessment was made, the names of separately assessed villages and their dependencies, and the extent of the lands both in and out of cultivation.

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97 Under the system which was adopted when the country became immediately dependent on the *Nawab Vizier*, the office fell into neglect, and the *amils*, intent more upon their own personal emolument than the interest of the state by which they were employed, were little anxious for the preservation of an office by means of which their own impositions might be detected. It is even said that the records in some *pergunnahs* were seized and made away with by the *amils*. Partly, therefore, from this circumstance, and partly, perhaps, from the *canoongos* having taken advantage of such a state of things to acquire numerous estates for themselves, they become more and more inclined to withhold their records, and to view them in the light of their own personal property, rather than as public documents.

98 At the Cession the *canoongos* were still in the enjoyment of certain emoluments, but in the year 1808, the Board of Commissioners resolved to new-model the establishment, and to place the office on a more efficient footing at much less public expense. With this view was enacted the 4th Regulation of 1808, by which the revenue of the lands hitherto held by the *canoongos* generally was declared liable to be resumed, and by the orders of the Board, dated 9th March of the same year, the salaries of the persons continued in office was generally fixed at Rs 30 per mensem, which were to be considered in lieu of all pecuniary allowances hitherto receivable by them, either as *nankar*, or under any other denomination.

99 But in this arrangement there was a defect which has been prejudicial to the establishment. The rent free lands as-

signed to the *canoongos* in virtue of their office, were the joint property of the whole family, every member of which assisted to discharge the duties attached to it. But on the resumption of these lands and the appointment of *canoongos* on fixed salaries, the number of persons retained were few in comparison, and as their salaries were not more than sufficient for their individual support, the rest were driven to get their livelihood by other employments.

100. Moreover the records being deposited in their private dwellings, each individual had unrestrained access to them; and being considered, as above stated, in the light of private property, the persons who were not retained on the establishment, secreted such portions of them as happened to be in their possession when this separation of interests took place, and it does not appear that any precautions were actually taken at the time to guard against such a result, although the Regulation contains a provision which might have been made use of for that purpose.

101. Through these inadvertences, a great portion of the ancient records were made away with, and instead of securing the services of the whole family, two individuals only were employed, who, even with the assistance of a *mohurri* each paid by themselves, are insufficient for the duties to be discharged by them. These duties are extremely laborious. The *canoongos* are constantly required for revenue purposes by the Collector and *tehsildar*; they have to keep numerous accounts, to superintend measurements and divisions of land, all *mofussil* revenue documents must be attested by them, and they are associated with the *pergunnah punchayets* held for the adjustment of disputes respecting land, or the produce of it, which continually arise in the village communities. Exclusive of these multifarious employments, their attendance is constantly required by the Courts of Judicature, where they are not unfrequently detained for a length of time, to the great detriment of their other affairs.

102. To provide for all the descendants of the original *canoongos* would, of course, be too expensive an arrangement, but vacancies should be supplied from them when practicable, and some of them might be retained, where the duties are peculiarly arduous,

as *mohurrirs*, on salaries varying from Rs. 5 to Rs. 10 each. Rewards likewise should be given to those who may produce the most authentic accounts, and we think that by these means papers of considerable value, might yet be recovered; for notwithstanding that so much time has elapsed, we have no doubt that in many *pergunnahs* they are still in existence. Two separate and tolerably complete *dusters* have been recovered in Akberpore, where none were before supposed to be forthcoming, and we have reason to believe that in other *pergunnahs* they would be brought forward were the office to be placed in proper hands and on a somewhat more liberal footing.

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103. The individuals at present entertained as *canoongoes* are in many instances ignorant, illiterate, and of very doubtful character. Some of them have been personally implicated in the abuses referred to in the Regulation under which we act; neither their testimony or their accounts, are to be implicitly depended upon, and we have often had cause to lament that men of such a stamp should be continued in the public service.

104. Indeed, there is but too much reason to apprehend that from want of due attention to these officers, their papers have in some instances been made use of for corrupt purposes. Among the records recovered from the widow of Kurugrai were found numerous *sumuds*, bonds, and deeds of other descriptions, which are supposed to have been fraudulently acquired. There were likewise discovered blank-papers bearing the seals of the *canoongo*, Surroop Sing, and of the *amils* Thakoor Doss and Seetul Pershaud, capable of being made use of for manufacturing documents in support of claims to be brought forward for the recovery of estates. A seal formed of wax, in imitation of one used by *Caze* Syed Yassen, of which several impressions had recently been taken, was also found, together with the impressions themselves, and were forwarded with the papers in the case of *Mouzah* Mondowly, for the consideration and orders of the *Sudder* Commission.

105. The *Sudder* will perceive from the proceedings, that strong suspicion attaches to Ramishar, and indeed little doubt can remain from the evidence adduced, that he has been concerned in these fabrications. But it does not appear to us that he could

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be brought to trial with success. The fabrication was obviously fraudulent, and designed to be injurious, and so far the rule contained in Clause 3, Section 4, Regulation II., 1807, may be considered in point; but the counterfeit seals are attached to plain and not to "written" or "printed" papers, to the forgery of which the penalties therein specified are declared exclusively to apply. As a measure of precaution, however, the acting Magistrate of Cawnpore has been directed to detain both Ramishar and Mohun Lal, the *mookhtar* of Mussumat Moonnah, on security, until further orders.

106. Under such circumstances, we strongly recommend that steps be immediately taken for revising and regulating the establishment throughout these Provinces. The inefficient men who now belong to it, should, after proper enquiry, make way for who might be found to possess superior qualifications. The *dufters* should be examined and arranged, lists drawn up, and steps taken to preserve them, and to secure their being in future always forthcoming when required. It would also be advisable that the Boards, Collectors, Courts of Justice, and all other authorities, by whom original papers belonging to the office of *canoongo* have from time to time been taken away for official purposes, should be directed to restore them to the *dufters* to which they respectively belong, and enjoined in all practicable cases to issue copies with attested copies. A strong dislike is entertained by the *canoongos* to the mutilation of their records. In fact, records can never be kept in good order, liable to such process, nor, on occasions of local investigation where they are most required, can they be forthcoming in regular series. Record Offices should likewise be provided at the *cutcheries* of the *tehseldars* for the reception of these records, for as long as they are kept, as has been the case hitherto, in the private dwellings of the *canoongos*, they must be always exposed to injury. They should remain of course under the *canoongo* exclusive charge, and be accessible to no one without their concurrence, but they should at the same time be deposited in a dry and secure building, kept in repair at the public expense and not liable to the various contingencies consequent on insecure accommodation.

107. We have dwelt in considerable detail on this subject, because experience convinces us that both in a Revenue and Judicial point of view, the recovery and preservation of *Mofussil* records, are of the utmost importance. At the Cession, the *amils*, and the other Executive Officers who derived their authority from the *Nawab Vazier*, carried away every official document within their reach relating to revenue concerns, and the *tehseldars* by whom they were succeeded, have, in like manner, withdrawn from their respective offices all public papers connected with the periods during which the revenue was farmed by them, viz., up to 1215 *Fuslee*. On this subject we addressed a letter to Government, dated the 7th February, 1822.

108. There remain, therefore, nothing but the records of the *canoongos* and *puticarees*. On the latter, no dependence whatever, generally speaking, can now be placed, with reference either to the interests of Government or to the rights of the tenantry. Laying aside altogether the known facts, that the accounts of these officers are continually falsified, their virtual dependence, notwithstanding Regulation XII. of 1817, on the engaging proprietor, and the necessity to which they are often subjected of delivering up their papers to the former occupant on every mutation of property, render all information from this source extremely precarious. The records of the *canoongos* therefore, appear to be the only documents of ancient date that remain for the guidance of the public authorities, and it would be a pity were this resource to be also lost for want of timely precaution and proper arrangement.

109. With the assistance of these officers, aided by the *mirdahs*,
Tehseeldars the *tehseldars* might be of the greatest use
 in the determination of disputed claims to
 the possession of lands, crops, wells, watercourses, and other premises, the investigation of which is now restricted to the *Deuanny* and *Foujdaree* Courts.* The *tehseldars* are men of good family, and carefully selected with reference to their education and character. They are better paid than any other description of native officers,

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* The Senior Commissioner is aware of no insuperable objection to the employment of the *Tehseeldars* likewise, in the trial and decision of disputed claims for rent between landlord and tenant.

which is some security for good conduct. The influence they possess, over all the *pergunnah* revenue officers, their local knowledge, the personal intercourse which they necessarily maintain with all classes of the agricultural community, and the facilities which these advantages afford them for detecting and remedying the petty frauds and aggressions in which disputes of this nature generally arise, are not possessed to the same extent by any other public functionary. Their proceedings should, of course, be summary, and the awards made by them appealable in the first instance to the Collectors, and ultimately to the Board of Revenue, and subject to be set aside on the institution and decision of a regular suit in the Civil Court.

110. Disputes of this description are rapidly increasing. The diffusion of knowledge and a more just appreciation of the blessings to be enjoyed under a regular and established Government, have rendered the acquisition and retention of rights an object of extreme solicitude. Many persons, who in unsettled times were compelled to seek their livelihood abroad, are now withdrawing themselves even from military service, to superintend their affairs at home, where agriculture alone affords ample means both of subsistence and employment. At the same time the growing disregard for truth which is unhappily so apparent in this part of the country, especially among the *Hindoos*, and the contempt in which religious and moral obligations are held among them, render other securities essentially necessary for the safety of property. *Hindoo* superstition is insensibly falling before the progress of knowledge, and no doubt this will prepare the way eventually for a better order of things, but its immediate effect is to dissolve the restraints, which even under that imperfect system, taught men in a certain degree respect for truth, and thereby to destroy the value of oral testimony. In fact the *Gunga jul* is acknowledged by the best informed of the *Hindoos* themselves to have become of so little efficacy, that it is a question, whether it might not be advantageously dispensed with, and the Courts relieved from the mockery of an idolatrous observance, on which no party relies, and which is no longer of any service to the general welfare.

111. We have only further to add, that although owing to the circumstance last stated, we have, of course, considerable difficulties

to encounter, yet the Regulations generally speaking under which we act work so well, and are so exactly calculated to meet the evil intended to be corrected, that little is left for us to supply, but ordinary assiduity. It is not, therefore, we hope too much presumption to anticipate, that if the business committed to us be not allowed to exceed such limits as we can conveniently compass, the just expectations of Government from the operations of the Special Commission, will not be disappointed.

112. The abstract statement alluded to in the first paragraph of this report, will be found in the Appendix.

[ENCLOSURE A.]

MR. PATTIE'S *Minute*.

I have perused the report from the *Mofussil* Special Commission, dated 1st July last, with satisfaction, for although it does not afford information to the extent which reasonably has been anticipated and might have been given, still it is an interesting and useful paper and is on the whole creditable to the public officers who have prepared it.

2. The *Mofussil* Special Commission it would seem from their report have, in their anxiety to bestow the fullest consideration on these points for the ascertainment of which the Junior Commissioner had been especially deputed to make local inquiry and investigation, overlooked the primary importance of supplying such a general review of the whole proceedings of the *Mofussil* Commission during its operative continuance in the Cawnpore District, as would have comprised the scope of information calculated to show the practical effects of the legislative enactment which constituted the Commission; the general impression its operations had made on the minds of the people under whose observation it had worked; and especially the opinions entertained by that portion of the people whose interests have been involved in the course of the legal proceedings conducted under the provisions of this Regulation.

3. I shall now proceed to record my sentiments on the several points noticed in the report of the *Mofussil* Commissioners.

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4. The definition of this term, and the title and privilege it confers, as exhibited by the inquiries of the *Mofussil* Commissioners, entirely corresponds with the conceptions my experience had led me to entertain. Properly used and understood according to the original intention of its institution, it is the title of the head of a village, whose office is managing agent for the *zemindar* or *malik*, and to this title should not, if unperturbed, attach any right of property whatever. But whatever doubts may have been previously entertained, it is now conclusively established by the inquiries and reports of the *Mofussil* Commission under consideration, that it has not been rare or uncommon for individuals to be entered in the Revenue accounts of the Ceded and Conquered Provinces as *mocuddums* of villages held by them when these Provinces become ours by treaty and conquest, whilst they were entitled to be considered the *zemindars* or *maliks* of those villages, and therefore should have been allowed in that character to make, directly with the Government, the Revenue Settlements of that period.

5. The result of Mr. Junior Commissioner Bird's inquiries in regard to the title *mocuddums*, has confirmed the opinion I have always entertained, and with reference to the numerous decrees which have been passed by which the proprietary rights of plaintiffs, though styled in the accounts of the *canoongos* and Collectors, *mocuddums*, have been recovered to them and established, it is surely highly satisfactory to know that no doubt need in future exist as to the possibility of an individual, though recorded in the revenue accounts, *mocuddum*, being really and truly vested with the proprietary rights of a *malik* or a *zemindar*.

6. It is fortunate for the purposes of justice that neither the dread of abused power, nor the unremitting fraudulent endeavours of unprincipled Native revenue officers, have found it possible to eradicate the strong prejudice and partiality inherent in the peasantry for the families of ancient landholders, as it has been from this conviction, and this experience, that the revenue agency of the heads of such families could not be dispensed with, or otherwise with their discontinuance would have necessarily followed the successful obliteration of their hereditary and proprietary rights in the soil.

7. To this influence with the peasantry maintained of the ancient landholders, is to be attributed the uniform necessity which has incessantly existed for their being employed as the organ of immediate communication with the peasants in the detail management and collection of the revenues, and but for this immutable necessity there would have been found no trace of the satisfactory evidence at this distance of time, so frequently brought forward to the discomfiture of the tyrannous and corrupt proceedings which have contemplated the entire removal of every means of vindication of the rights of these ancient *zemindars*.

8. It is to be regretted the *Mofussil* Commissioners did not desire to explain these titles by showing the nature and extent of the rights and interests of this class of proprietors of the soil as well as their tenures. When using the expression "right of property in the soil" they probably supposed they were not exceeding the meaning and intention of the expression so common in our Regulations, *viz.*, the proprietary right of the *zemindars* in the lands comprised in their "*zemindarees*;" not recollecting the restricted nature of the latter when contrasted with the former. The right of property possessed by the *zemindars* under the former Governments has not to my knowledge been yet unquestionably discovered, whilst the relative rights of the British Government and the *zemindars* both in Provinces in which the *sudder jumma* has been permanently fixed and has not been fixed in perpetuity, is so generally known as to render any explanation of them here quite superfluous.

9. The proposition of the *Mofussil* Commissioners, in respect to this individual, appears to me to be premature. The *Mofussil* Commissioners have not yet ascertained that this individual is consenting on any terms to the relinquishment; for they state he "would be willing, we are inclined to think, to relinquish them (the villages claimed) for a fair and reasonable compensation." Besides the inquiries which should precede a recommendation of this description are yet to be instituted. The *Mofussil* Commissioners have taken no preliminary step, they have no information beyond conjecture of Ishurree

Ishurree Singh, paras 56 to 62, enclosure of *Mofussil* Commissioners' report.

vide paragraph 62.

Singh's disposition on the subject, and they admit that they have yet to procure "such information as may be required respecting the estates claimed and ascertain all the circumstances connected with the assumptions of the *jagheer*, so as to be able, when the time for negotiation arrives, to act promptly and effectually. On the conclusion of our proceedings we should report, through you, the result for the orders of Government, with whom the final decision on the subject would, of course, rest."

10. I am of opinion that the suggestion of the *Mofussil* Commissioners, and for the reasons they have assigned, is entitled to attention; but to enable this Commission and the Government to form a correct opinion of its real merits, and to pass a definitive order, it is, I think, advisable to require the *Mofussil* Commissioners to ascertain on what terms Ishuree Singh will be satisfied; and if his terms are considered reasonable, then to make inquiry and obtain full information on all points of necessary detail, such as, for instance, the extent and gross resources of the villages claimed and of those proposed to be confirmed in exchange, for the purpose of submitting to this Commission a distinct and full report on this subject.

11. The information I have derived since I have sat in this Commission,* induces me to believe that the *Mofussil* Commissioners have in this branch of their report not at all exaggerated the oppressions which succeeded the perversion by the Native revenue officers in the Western Provinces of the authority given by the provisions of the Regulations relative to the collection of the revenue and to the sales of land for the realization of unliquidated arrears. But I am not prepared to approve their recommendation, that public sales for the recovery of arrears of revenue should at once, by legislative enactment, be for the future in those Provinces totally interdicted.

12. It may be useful to inquire to what degree the provisions of Regulation XI. of 1822, have succeeded as a preventive and remedial law, before the necessity for any further legislative enactment in regard to public sales is taken into consideration. Every inquiry I have made (and I have been anxious to obtain informa-

* Auction sales, para. 68.
November, 1824.

tion on this subject from sources calculated to give me accurate intelligence) has impressed me with the belief that, with the exception of cases where over-assessment has occasioned the arrears, an active and intelligent Collector in the Upper Provinces may always realize the Government demand without having recourse to public sales. It is hardly necessary to observe that no perfection of legislation can remedy the evils which may result from want of energy, zeal, and intelligence in the ministerial officer who is to enforce the laws.

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13. The evils which the *Mofussil* Commissioners so highly and justly deprecate, and which they propose shall be cured by rescinding Section 15, Regulation XXV. of 1803, would assuredly be much enhanced were this measure adopted. The result is so obvious that it is extraordinary it should have escaped their perception. This law, as it now stands, is excellent. It obviates the necessity for the concealment, fraud, and intrigue, by which Native officers would otherwise most assuredly acquire property by private transfer; and its existence encourages^s respectable and intelligent natives to engage in our revenue offices, of whose local knowledge, cheap and useful services, the State would probably be very often deprived were the disability proposed by the Commissioners to be sanctioned.

14. It is unquestionably of great importance to the fulfilment of the objects contemplated by Regulation L. of 1827, that the adjustment of *Putteedaree* claims should be well and speedily concluded. It is of no less importance that the *Mofussil* Commissioners should invariably, whilst investigating claims to the restoration of possession or management of land, perfect the inquiries directed by Clause 7, Section 3, of Regulation I., of 1821—an indispensable duty which I regret to observe has been very much neglected. Entertaining this opinion, and refer-

Abstract of Statement, No. 11, of the Appendix to Mofussil Commissioners' Report.

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From the 1st May, 1827, to the 1st July,

ring to the time occupied by the *Mofussil* Commissioners at Cawnpore in accomplishing the duty there, and to the numbers of cases depending before the *Mofussil* Commissioners at Allahabad, on

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Depending on the 1st June last—

Auction sales, ...	99
Errors of record, ...	88
Private transfer, ...	71
<i>Putteedaree</i> claim, ...	205
Total, ...	463

the 1st of June last, and sup-
posing no greater expedition
is in future to be effected by
the present strength of the
Commission, I have no hesi-
tation in giving it as my de-

cided opinion that the numbers of the *Mofussil* Commissioners should be increased as far as may be consistent with a due atten-
tion to economy and with the other exigencies of the service.

15. When it is recollected that it was never intended this Commission—*Sudder* and *Mofussil*—should have the protracted duration it has already arrived at, when the enhanced difficulties which must invariably impede the execution of this duty the longer it is deferred, and the hourly diminution of the advantages justly anticipated from its institution are duly considered, there can I imagine be no question that it is to be devoutly and anxiously desired that every possible and unexceptionable measure of expedition should be employed.

16. From the nature of the cases which have come under my own observation, and from all I have heard, I am entirely satisfied that every disinterested individual must rejoice in the correction of the grievous evils which have been remedied by the operation of Regulation I. of 1821 ; still it must not be forgotten that the work of this law, when enforced, is to disturb the property and possession of persons very long undisturbed, however that property may have been originally unfairly obtained, or derived in succession from those who so obtained it; and that, therefore, the completion of proceedings, unavoidably occasioning such extensive dissatisfaction by the perfect accomplishment of the objects contemplated by the State, should be expedited as much as is possible.

17. The *Sudder* Commission have recently and very urgently required from the *Mofussil* Commissioners a due and constant attention to the provisions of Clause 7, Section 3, of Regulation I. of 1821 ; and several cases have been returned for this important and valuable course of inquiry to be completed. The information to be thus sought for is essentially accomplishing the useful and

sound views of Regulation VII. of 1822, for whenever the nature, conditions and extent of landed tenures, together with the rights, interests, and privileges of all classes of the agricultural community in the Ceded and Conquered Provinces have been accurately ascertained and recorded, the most cherished views of a good Government are accomplished by the facilities afforded to the Judicial and Revenue authorities for the faithful discharge of their arduous duties, and by the increased and undisturbed security obtained for the property of the most valuable and most productive class of subjects.

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18. I consider it is wholly inexpedient to approve the proposition contained in the 90th paragraph of their report, which recommends as an unobjectionable measure of expedition that a single Commissioner shall be declared competent to decide the local investigation and inquiries referred to, and subject only to an appeal to the *Sudder* Special Commission. Despatch, however desirable, will (in my opinion) be too dearly bought by this innovation. The authority delegated to the *Mofussil* Commission is too special and too important for it to be entrusted to a single individual, however skilled and however experienced he may be; were it less so, I should, still considering its operation, and from respect to the feelings of the natives whose interests it affects, solemnly object to lessen the character of consideration we evidently to their perception give it at present, by not allowing single Judges to exercise so high and so peculiarly extensive a power.

19. We live in times of experiment and innovation, and I am not therefore surprised to find adopted as perfect and conclusive the speculative sophistry of a modern writer (of no practical experience, but of considerable talent and renown as a theorist) against the ancient and highly respected prejudice—"that the greater number of Judges, the greater must be the probability of a right decision."

20. Our English judicial courts of the higher grades (and we cannot do better than refer to that country for practical perfection when we are in doubt), with the exception of the Court of Chancery, are not committed to single Judges; whilst even the Court of Chancery, whenever the issue of the case depends on the proof of a matter of fact, is accustomed to direct a feigned issue, that a trial by

a jury may be obtained—a course of proceeding solely preferred from the generally approved conviction that the best and most perfect estimation of human testimony is not to be otherwise attained.

21. My very long experience in judicial duties has hourly more forcibly impressed on my mind the inestimable advantages attending Courts of the higher grades being entrusted only to two or more Judges. Prejudice, wrong conception, imperfect recollection, partial and occasional deficiency of any particular class of information, limited experience, and accidental omission of attention, in fact, all the omissions, evils, and defects to which single Judges must be perpetually liable, are susceptible of immediate correction when the duty is entrusted to a plurality of Judges. Discussion, whilst it is calculated to obtain for the truth the fullest consideration, is admirably qualified to dispel prejudice and to remove every obstruction to the fullest light being thrown on the subject under deliberation.

22. In this country (and more peremptorily for the duties of this Commission—*Sudder* and *Mofussil*) where for the perfect administration of the duties of a Court of higher grade it is indispensable the Judge should be skilled in both judicial and revenue knowledge, it would be difficult always to find public officers thus qualified; and in this and every country where rights and property highly valued and respected are made the subject of judicial investigation, it should be the anxiety of the Government to procure for these Courts of Justice the sanction and respect of public opinion. No one qualified to decide will, I suppose, deny that the individuals concerned in the issue, and the public at large, will on general principles be more universally satisfied that impartial and perfect justice has been administered when a plurality of Judges have decided a case, than they would be by the decision of any single Judge.

23. A good conscientious man will at all times be wholly impressed with the awful responsibility of faithfully fulfilling judicial duties entrusted to him; and the man who can permit any relaxation of that feeling because a colleague partakes the responsibility with him, can, I apprehend, have no confirmed principles of virtue, and is equally unfit to sit alone as with a colleague. I disclaim any intention to express more than my view of an important

question, and to convey my confirmed and decided preference for the system which does not require from single Judges the administration to the higher degrees of judicial power.

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24. I think highly of the suggestion of the *Mofussil* Commissioners, that when conducting local investigations and when inquiring into *putteedaree* claims, they may be authorized to refer such cases for adjustment to a *punchayet* composed of individuals of respectability and influence residing in the neighbourhood. I do not concur in opinion with the *Mofussil* Commissioners that it is either expedient or just to shut out the parties interested in the issue of a *punchayet* inquiry from all objection. To this course of proceeding on the contrary, their objections, if offered, should always be received with every readiness and tenderness; and when considered by the *Mofussil* Commissioners either futile or inadmissible, they should nevertheless be submitted to the *Sudder* Commission for a final order. At least one of the *Mofussil* Commission should be constantly near enough to the spot where such a *punchayet* investigation may be conducted, to admit of immediate reference, whether by the *punchayet* or by the parties interested. Opportunity thus afforded for the immediate correction or alteration of any irregularity, should it prevail, will not only generally and materially conduce to the proper and expeditious conduct of the *punchayet*, but will tend to prevent the frivolous and litigious complaints which, were such a precaution omitted, would constantly be made at the termination of the issue by the unsuccessful party.

25. Entertaining the foregoing opinions, I would recommend that this Commission be directed to require the *Mofussil* Commission to prepare and submit the rules of guidance they may consider calculated to secure from a *punchayet* of the description they propose to employ, a patient, impartial, and perfect investigation and decision in the cases of local inquiry which may be entrusted to them.

26. The rule proposed by the *Mofussil* Commissioners to punish neglect of *putteedars* in preferring claims, or who may, previous to the decision of a suit, have executed engagements to the prosecutors, appears to

PARAS 22 to 25 inclusive.

me wholly objectionable. Doubtless it is indispensable that the interest of every co-sharer should, without reference to any consideration foreign to the question of property, such as character and conduct, be thoroughly and most carefully investigated and decided by the *Mofussil* Commission. But claims grounded on agreements for the transfer of property, if acquired under the decision of the *Mofussil* Commission, may be very properly referred for the establishment of their validity to the regular Courts of Justice.

27. The efficiency and utility of the office of *canoongo*, as it is represented by the *Mofussil* Commissioners
Canoongos, para 96. to have formerly existed, and the good policy of endeavouring to re-establish the highly desirable advantages to be derived from such an office of *mofussil* revenue record, are too well known to all experienced revenue officers to admit of being questioned. I have therefore no hesitation in giving my unqualified concurrence to the adoption by the *Mofussil* Commissioners of the course of proceedings the *Mofussil* Commissioners recommend should be pursued in the Western Provinces.

28. Some facilities exceeding those at present attainable should be devised for affording speedy and effectual
Tehseeldars, 109. redress in all cases of disputed possession of lands, crops, wells, watercourses, &c. The course of redress now provided, experience has shown, is entirely defective. It would not be safe to entrust the decision of such cases (as proposed by the *Mofussil* Commissioners) to the *tehseldars*. The Collector or other European revenue authority of the district should commit such cases to the investigation and decision of a *punchayet*, composed as recommended in the 24th paragraph of this paper; and when the litigating parties will not consent to a *punchayet*, or local obstacles exist to the assembling of a *punchayet*, such as the absence of neighbouring inhabitants of respectability, or the distance of the property in dispute rendering the assembly of a *punchayet* too expensive, the Collector or other European Revenue authority should have the power, after a summary local investigation, of giving possession, and his proceedings should in all such cases be submitted to the Revenue Board or other equal authority for confirmation.

29. I regret that, consistently with a due attention to my daily official duties, I have not been able to devote to the mature consideration of the weighty questions treated of in the *Mofussil* Commissioners' report that time and deliberation which, with more leisure, their great importance would have obtained from me, and I entreat the imperfect opinions I have given may be always viewed with reference to the disadvantages under which they have been prepared.

30. In conclusion, I will offer my opinion as to how far the operative effect of the constitution and proceedings of the two Commissions—*Sudder* and *Mofussil*—have been productive of the highly important objects of the institution, as detailed in the preamble to Regulation I. of 1821.

31. The experience I have had since I joined the *Sudder* Commission, and the inquiries I have anxiously made during this period of individuals qualified from local position to acquire and give accurate intelligence on such a subject, have entirely satisfied me that the laudable and benevolent and just anticipations of the Government, from the institution of these special tribunals, have been accomplished to a degree which, relatively considered, entitles the limited inconveniences which have been incurred from the exercise of authority so extensive to no feelings of regret.

32. Whatever may have been the apprehensions and mistaken estimation originally entertained of the operative effect of Regulation I. of 1821, the grievous injuries committed by our Native officers which it has redressed; the numerous hereditary and ancient proprietors it has restored to their rights and possessions, arrested from them by force and by fraud, and which would not have been otherwise ever recovered; have so unquestionably published and made manifest the wisdom and benevolence which projected and sanctioned legal remedies so entirely salutary and just; that it may be considered certain the general impression thus created in the minds of the people has augmented and confirmed their confidence that the British Government will always desire to pursue a course of strict justice, liberality, and humanity, and will never cease to be most solicitous to promote the security and protection of the rights, interests, property, and happiness of all its subjects.

33. The prevalence of immorality and litigiousness noticed in this part of the *Mofussil* Commissioners' report, would assuredly, in all our dominions in this country, receive very salutary checks and restraints, were the present almost insuperable delays and difficulties to the bulk of the people in obtaining legal redress diminished. A review of the present judicial system,—civil and criminal—which would, whilst simplifying it, remove the encouragement the rich oppressor has from the opportunities given to protract litigation, and from the impossibility of the poor man following the law's delays, is devoutly to be desired, and it will be soon accomplished, whenever the authorities competent to order it shall desire to have a code of laws regulated solely by a correct estimation of the genius of civilization, general condition, and real character of the people.

(Sd.) J. PATTLE.

[ENCLOSURE B.]

MR. ROSS'S *Minute*.

Having read the report of the *Mofussil* Special Commission, dated the 1st July last, on its proceedings in *Zillah* Cawnpore, I beg leave to offer my sentiments on it.

2. I cannot quite agree with Mr. Martin in thinking the report does not furnish the information necessary to enable Government to appreciate the effects produced by the operation of Regulations I. of 1821 and I. of 1823, on the minds of the people of Cawnpore. The statement No. 11, of the Appendix to the report, shows all that the Commissioners have accomplished in that *zillah*, and if it be not thought to afford a very satisfactory exhibition of the amount of their labours, it at least contains all the information required for the purpose mentioned by Mr. Martin.

3. From the statement referred to, it appears that from the 1st of May, 1821, to the 1st July, 1825, a period of four years and two months, during the whole of which the *Mofussil* Commission was employed in *Zillah* Cawnpore, the number of cases brought

before it was 597, of which 596 had been disposed of on the last mentioned date: of these 596 cases disposed of, 167 were dismissed on account of some informality, or as being not cognizable by the Commission; and 31 were adjusted without the interposition of its authority—so that only 398 were decided or adjusted after investigation into the merits of the claims preferred, being at the rate of only eight cases in a month decided on trial. This rate of progress will, I apprehend, disappoint the expectations of Government; but yet, when it is considered that the labor of the Commission was exclusively applied to repairing the injuries sustained by the unintended operation of the revenue laws, it cannot be doubted that its proceedings, although slow, have been viewed with approbation by the great body of the agricultural population, not of Cawnpore only, but of all the Western Provinces.

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4. The first part of the report under consideration is devoted to an explanation of the nature of *mocuddumnee* and *zemindaree* tenures.

5. In regard to the first of those tenures it has, I believe, been always the generally received opinion, that the title *mocuddum* does not confer any right of property whatever, but denotes the head or chief inhabitant of a village employed as manager for the *zemindar*. The result of the inquiries of the *Mofussil* Commissioners seems to me to establish the justness of this opinion, and at the same time is conclusive, I think, as to the fact that many individuals in the Ceded and Conquered Provinces mentioned in the revenue accounts as *mocuddums* of the villages held by them at the time those Provinces came under the British authority, were *zemindars* or *maliks* of those villages, and should have been admitted to engage for them directly with Government as the *zemindars* or proprietors.

6. The titles "*zemindar*" and "*malik*," the Commissioners think, designate landholders having a right of property in the soil. The Commissioners, however, give no explanation of the precise meaning which they attach to the words "right of property in the soil," and they seem to have adopted those words merely

because they are used in the Regulations which recognize the proprietary right of the *zemindars* in the lands comprising their *zemindarees*. But the right of property which the Regulations declare vested in the *zemindars* is assuredly not a right either of the same nature, or of the same value, with that which is generally understood by the English words “property in the soil,” namely a right to realize and *appropriate* the whole of that portion of the produce of the soil which constitutes rent; for that is a right which has been exercised by the ruling powers in India for a length of time, and is expressly reserved to itself by the British Government and exercised by it in those of its Provinces, where the *jumma* or demand on account of the public revenue, has not been limited and fixed in perpetuity. The Commissioners do, indeed, say that there were some of the *zemindaree* privileges which only the *zemindar* enjoyed when the *zemindaree* was held *khas* or let to farm, but they do not tell us what those privileges were; what the nature is of the right of property possessed by the *zemindars* in the lands composing their *zemindaree*; and what was considered as constituting a title to that right under the former Governments, are points which have not yet been ascertained, and the present report throws no light upon them.

7. In regard to the claims lately preferred to certain villages
 Claims to villages held by of which the late Surroop Singh, *canoongo*,
 Isharee Singh, para. 56. was erroneously recognized to be the *zemindar*, if Isharee Singh, by whom the villages are now held under a title which he himself acknowledges to be invalid, cannot be compelled to relinquish them to the rightful *zemindars* without subjecting the latter to expense and trouble, it might in that case be advisable to endeavour to induce him voluntarily to give them up. It is impossible, however, to form a correct judgment as to the propriety of the measure suggested by the *Mofussil* Commission without knowing the extent and *jummabundee* or rental, both of the villages claimed, and of those proposed to be given in exchange for them; and I think the *Mofussil* Commissioners should be desired to submit the necessary information on those points before they be authorized to propose to Isharee Singh the exchange suggested.

8 Under the head of "auction sales," the report contains a just representation of the evils produced in the Western Provinces in the first seven or eight years after their acquisition, by the iniquitous conduct of the Native revenue officers in perverting the rules enacted for the collection of the revenue, and especially those which relate to the sale of land for the recovery of arrears of revenue, and the Commissioners suggest the expediency of an enactment prohibiting recourse in future to the measure of public sale in those Provinces.

9 The realization of the public revenue in the Upper Provinces might without doubt be effected, although the measure in question were entirely prohibited. Indeed, I know from experience, that the other means prescribed by the Regulations, if properly enforced, would be quite effectual for the recovery of all balances not accruing from over assessment, yet as instances may occasionally occur in which it may be expedient to have recourse to the measure of public sale, I do not think it would be advisable to adopt the recommendation of the *Mofussil* Commission, at least not until it shall be found that the provisions of Regulation XI of 1822, are insufficient for preventing the evils complained of.

10. The adoption of the proposition of the *Mofussil* Commission to prohibit Native public officers from acquiring, by private bargain as well as by public sale, property in land situated within the *zillah* in which they may be employed, appears to me to be also unadvisable, for the reasons stated in Mr Martin's Minute. The sure mode, and indeed, the only unobjectionable mode, of preventing the fraudulent and unjust transactions adverted to, is to establish such a system of judicature as will enable all classes of the people to obtain, without expense, immediate redress of every act of fraud, oppression, or injustice, of which they may have to complain.

11 Under this head the *Mofussil* Commissioners state that, from the quantity of business now brought before them, it is impossible even to form a conjecture when, as matters at present stand, they will be able to

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finish their labours; and they represent * the necessity either of

* Note, in Allahabad the number of cases which had been brought before the Commission on the 1st of June last, before they had commenced their proceedings in that Zillah was 463, viz:—

Auction Sales,...	... 99
Error of record,	... 88
Private transfers,	... 71
Putteedaree claims,	... 250
	<hr/> 463

relieving them from the duty of taking cognizance of claims to *putteedaree* rights, or of adding a third member to the Commission; and making each member competent singly to try and decide claims of that description.

12. It is obvious that the work to be performed by the Commission must become more difficult of execution the longer it remains unaccomplished; and that every day's delay must diminish the good expected from it and increase the evil attending it; for some

If the proceedings of the Commission be not more expeditious than they were in Zillah Cawnpore, these cases will not be disposed of in less than five years.

degree of evil cannot but attend a work

depriving persons of property and rights which have been long enjoyed, however unfairly such property and rights may have been acquired; and on this consideration alone it would be desirable that the Commission should be enabled to expedite its proceedings, although its duties were to be limited to the mere annulling of the illegal and unjust sales, which formed the ground of its appointment.

13. But it would, I conceive, be very inexpedient to exonerate the Commission from any part of the duties which have been imposed upon it. A great portion of the evils arising from the sales adverted to, as the Commissioners justly state, consists of the injury done to *putteedaree* rights, which would not be remedied by the mere annulment of those sales. Indeed, the full investigation of every suit coming under the cognizance of the Commission, involves the adjustment of *putteedaree* rights, and unless they be adjusted, little of the good contemplated from the enactments of Regulation I. of 1821 will be attained.

14. It is moreover exceedingly desirable that the *Mofussil* Commission should be enabled to accomplish all the objects of its appointment, because, in accomplishing those objects it would be aiding most materially towards the completion of the great work commenced under the provisions of Regulation VII. of 1822, namely, that

"of ascertaining and defining the nature of the landed tenures and the rights, interests, and privileges of the various classes of the agricultural community in the Ceded and Conquered Provinces."—In fact, Clause 7, of Section 2, of Regulation I. of 1823, requires the Commission to perform this work in every *mehal* or estate in which a claim to right of property is preferred to it, and there is scarcely a *mehal* or estate in the said Provinces in which a claim cognizable by it on some of the grounds stated in Regulation I. of 1821, and Regulation I. of 1823, may not be preferred to it.

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15. On the utility of the great work referred to, I need not enlarge. A definition of the rights and privileges which it is its object to ascertain, is, in short, necessary to their security, and to the welfare of the agricultural community: and until they shall be adjusted and defined, it is vain to expect that the disputes which must be ever arising respecting them can be satisfactorily decided by the ordinary Courts of Justice, however, excellent the constitution of those Courts may be, or that any very considerable improvement of the country will take place.

16. On the foregoing considerations it appears to me to be very expedient to add to the *Mofussil* Commission as many members as the other exigencies of the service will admit, and also to make each member competent singly to pass orders and give judgment, subject only to an appeal to the *Sudder* Special Commission, in all cases which the Commission collectively is empowered to decide under the existing Regulations.

17. An extension of the powers of its individual members as above proposed is, I conceive, essential to give efficiency to the Commission, and I would hope that the great advantage which such an extension is calculated to produce will be deemed sufficient to overcome the objections which may be urged to it.

18. For the despatch of judicial business, (and the business of the Commission is wholly judicial) it must be obvious that a single Judge having only his own opinion to form and to be guided by, is more than equal to two or any greater number sitting together, each having, not only his own opinion to form, but those of

his colleagues to combat, and all subject to the many interruptions and delays which they cannot but occasion to each other. For diligent and upright conduct in the discharge of the judicial functions, it must be obvious too, that a Judge sitting singly affords the best security ; for when a man knows that he will receive the whole of the merit of good and the whole of the disgrace due to bad conduct, the motives inducing him to exert himself to do well must be greatly stronger than when he knows that the responsibility attaching to his situation will be shared with him by others. In favour of a plurality of Judges sitting together, I am aware of but one argument that can be urged, which is, that the greater the number of Judges the greater must be the probability of right decision. The force of this argument, however, is not so great as it appears to be. Of two or more Judges appointed to sit together, in all probability one will be superior in ability to the others, and surely the opinion of that one is not likely to be improved by the aid of the others. The joining of them with him, therefore, can produce no other effect than that of obstructing his proceedings in the case under trial, and preventing them from being usefully employed in the trial of other cases.* If all were equal in ability, it is indeed

* It must be presumed that the least able of the Judges of Courts in which there are two or more Judges, is qualified to try and decide the generality of the causes which come before the Court. If any of them is not so qualified, he is unfit for his situation, and should not hold it.

possible, but only barely possible, that by the suggestions of each other in discussing the merits of a difficult case they might collectively be enabled to arrive at a better judgment than any of them sitting singly would come to. But this advantage, if even attained, would be so small, and the cases of difficulty likely to occur in which it would be wanted are so few, that it is hardly deserving of consideration, and certainly must be deemed insufficient to outweigh the disadvantages which must be submitted to, in order only to have a chance of obtaining it. It is only when a party concerned is dissatisfied with a decision of a single Judge that the opinion of another Judge can be necessary ; and then the appeal should be made, not to a Judge of the same Court or of the same rank with him who first tried the case, but to a Judge of the Court of last resort, who from his larger experience and approved knowledge, must be presumed to be better qualified than a Judge of in-

ferior station to perceive and correct any error that may have been committed in passing the decision appealed from.

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19. The office of *canoongo*, as it at present exists in the Western Provinces, is certainly far from being efficient. The suggestions of the *Mufussil* Commissioners for putting the office on a respectable and useful footing are, I think, judicious and deserving of attention.

20. On the suggestions contained in the report under this head for employing the *tehseeldars* in deciding disputed claims to the possession of lands, crops, wells, watercourses, &c., I am not prepared to offer an opinion. I am, however, ready to admit that it is most desirable that the people should have the means afforded to them of obtaining redress more easily than at present they can obtain it, for injuries done to them in cases of the description mentioned, and indeed in all cases. The increase of disputes among them, and the growing disregard for truth noticed by the Commissioners at the conclusion of their report, are perhaps in a great measure, if not, wholly ascribable to the difficulty that exists of frustrating by an appeal to justice the greedy intentions of dishonesty. In every country, as well as in this, where the only course that can be pursued to obtain the protection of justice is closed to the great bulk of the community by the trouble, difficulty, delay, and expense with which it is obstructed, dishonesty and dishonest litigation being encouraged must be expected to increase, and false swearing, fraud, and chicanery among those who frequent the Courts of Law, must be expected to increase also.

The 5th November, 1825. } (Signed) A. ROSS,
Offg. Member of the Sudder Special
Commission.

[ENCLOSURE C.]

MR. MARTIN'S, Minute.

The report from the *Mufussil* Special Commissioners, dated on the 1st of July last is, I think, less complete and satisfactory than might have been expected from them.

Instead of comprehending a general review of the proceedings of the Commission during the period of time in which it was in operation at Cawnpore, and affording to Government the information necessary to appreciate the effects of the Regulation under which the Commission was originally constituted, upon the minds of the people generally, and especially of those whose interests have been immediately effected by the provisions of it, the report is principally occupied by a consideration of certain points to which their attention had been immediately directed, and for the ascertainment of which, by local investigation and inquiry, the Junior Commissioner had been especially deputed.

The necessity of an inquiry into some of those points had been suggested by a difference of opinion existing between the members of the *Sudder* Special Commission, respecting the nature and extent of the interest possessed by a large majority of the plaintiffs in the suits instituted, who, in conjunction with their *putteedars*, or co-sharers, claimed a proprietary right in the villages for the recovery of which they sued, but whose claims were resisted on the ground of their having been denominated in the records of the *canoongos* and Collectors "*mocuddums*," a term which was contended by the defendants to signify the possession of an interest of a subordinate and stipendiary kind, and altogether inconsistent with the notion of proprietary right conveyed by the words "*malik*" or "*zemindar*," by which they were themselves distinguished.

The result of the inquiry instituted by the Junior Commissioner, Mr. Bird, for the purpose of ascertaining the relation in which the persons styled *mocuddums* stand to the village agricultural community on the one hand, and to the *talookdar* on the other, confirms, I think, the opinion which I have always entertained of the light in which a large proportion of this description of suitors ought to be considered.

It has always appeared to me that with reference to the peculiar constitution of things formerly existing in the Western Provinces, to the state of misgovernment under which those provinces had been long suffering previously to the Cession, and to the violence and rapacity of the *amils* by whose agency the administration of them:

was conducted, and who were regardless of any right and jealous of any pretension which might be deemed capable of opposing a limit to the exorbitancy of their demands, the question respecting the extent of the interest possessed by those who were called *mocuddums* ought to be determined, less by a regard to the literal meaning of the term, and to the sense ordinarily applied to it in other districts, and in parts of the country differently circumstanced, than by conclusions deducible from a historical retrospect of the consequences to the revenue system of those Provinces, proceeding from the various revolutions which in rapid succession subverted the primitive institutions of the country, and consigned the management of its Provinces to a few powerful agents of the Government, whose ability was in general measured by the extent of their extortions, and who were, therefore, strongly tempted to violate every right, and to trample upon every usage which could operate as a restraint on their proceedings.

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It may be inferred, I think, from the *Mofussil* Commissioners' report, that the term *mocuddum*, as it has been usually understood and applied in several of the Western Provinces, and especially in the District of Cawnpore, was, if not originally introduced, at least generally adopted by the *amils* of the former Government, for the purpose of stifling the existence, and eventually of extinguishing the recollection, of a right to property in the soil which they had no disposition to acknowledge; and if the inveterate habits of respect and deference entertained by the peasantry for the families of the old proprietors had not happily counteracted the tyrannous propensities of their rulers, and rendered the agency of the heads of these families necessary to the regulation of the assessment and to the punctual collection of the village rents, it is probable that every vestige of an independent and hereditary right to property in the soil would have been speedily effaced, and every other distinction obliterated, but that which was arbitrarily created by the Government for the purposes of its own administration.

The necessity of resorting to some intermediate agency between the agricultural community and the officers of Government having been established, the persons who possessed the greatest influence over the cultivators of the soil, and who were most conversant with

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of absolute submission to the adverse pretensions of the new proprietors, were emboldened to proceed to the assertion of their rights and by exposing to view the grounds on which their claims to the character and functions of proprietors were founded and the artifices by which their claims had been hitherto defeated or suppressed excited that attention to the circumstances under which a preference had been conceded to their rivals which, after many unsuccessful attempts to redress their injuries by resorting to the established Courts of Justice, ultimately procured the salutary enactment of Regulation I., 1821.

In conformity with this view of the predicament in which the *mocuddums* were situated at the period of the Cession, and of the relation existing between them and the agricultural community on the one hand, and the *talookdars* and auction purchasers on the other, has been the general course of the decisions held in the *Sudder* and *Mofussil* Special Commissions; and if any additional evidence were wanting of the soundness of the principles by which the decisions have in general been governed, and of the accuracy of their conclusions with respect to the real character and claims of the *mocuddums*, it is to be found, I think, in the discovery of the papers belonging to the late *canoongo* Khurukrai, the circumstances of which are fully detailed in the Commissioner's report, and the confirmation which it affords to the course of reasoning by which their conclusions were attained.

With regard to the proposed payment to Isharee Singh of compensation for his voluntary relinquishment of the villages which he fraudulently usurped, and the possession of which he has so long withheld from their lawful owners, I confess that I should feel a strong disinclination to concur in any recommendation of this nature, if the merits of his own conduct are alone to be considered; but the reasons for suggesting this arrangement which are assigned in the 61st paragraph of the Commissioners' report, are certainly deserving of attention; and the weight which is due to them may probably induce the Government to authorize the Commissioner to concede to Isharee Singh the benefit proposed, on condition of his immediately relinquishing possession of the usurped villages to the lawful owner.

I cannot think, that with a view to prevent the fraudulent transfer adverted to in the 77th paragraph of the Commissioners' report, it will be expedient to rescind the Provisions of Section 15, Regulation XXV, 1803

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The operation of the disqualification which the proposed recession would establish, instead of mitigating or removing the evil represented to exist would, in all probability, tend to produce a contrary effect, and by depriving the Native Revenue Officers of the means of lawful purchase, serve only to sharpen their ingenuity in devising irregular and clandestine modes of accomplishing the same object.

It would also tend to diminish the respectability of this class of public officers, and to deprive the European revenue authorities of the aid of men of character and intelligence when local knowledge of their respective districts might, under the control of a vigilant and experienced Collector, be applied to purposes of great public utility.

The adjustment of *puttedaree* claims, however necessary and important to the complete accomplishment of all the objects contemplated by the provisions of Regulation I, 1821, does not yet appear to me to involve questions of such difficulty, and to impose on the Commissioners a task of such labour and embarrassment, as they seem to apprehend, and I do not, therefore, see the necessity of adding a third member to the Commission

The experience which they have now acquired of the general character and circumstances of the suits which they are appointed to investigate, and of the chief points to which their attention on deciding them ought to be directed, must have tended greatly to simplify and facilitate the performance of this duty and in proportion to the extent of the facility thus afforded, must be the degree of leisure left to them for the purpose of adjusting with precision the claims to *Puttedaree* rights which are not unfrequently admitted by the prosecutors, and have, therefore, only to be recorded in the decree, but which, even when disputed, do not, as far as my own experience enables me to form a judgment, render necessary the application of any considerable degree of time and labour

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I am not, however, aware of any objection to the proposition contained in the 90th paragraph of the report, which suggests the propriety of rendering the decision of a single Commissioner conducting a local investigation into claims of this nature immediately sufficient, and subject only to an appeal to the *Sudder* Special Commission; and I am strongly of opinion that the inquiry into the grounds of them would be greatly facilitated, if the Commissioner were empowered to avail himself of the aid of a *punchayet* constituted in the manner proposed in the report, and guided in the execution of the duty confided to them, by the observance of such rules as the Commissioners may think necessary to prescribe for the purpose of securing an attentive examination and impartial decision of the points at issue.

It does not appear to me to be expedient to adopt the rules suggested by the Commissioners for disqualifying all *putteedars* who may neglect to prefer their claims, or who even may have executed engagements to the prosecutors, previously to the decision of the suit, from recovering their right through the medium of the Special Commission.

I think that in each case the extent of the interest possessed by each co-sharer in the property of the village, should, without reference to any considerations affecting his character and conduct, be as carefully as possible ascertained, and accurately recorded: but the validity of any agreements which may have been entered into between the recorded proprietor of such interest, and any other party in the suit, may be safely left to the determination of the ordinary Courts of Justice, where the documents attesting such agreements may be produced and the force and obligation of them settled.

I entirely concur in the opinion expressed by the Commissioners with respect to the propriety of a general revision of the *canoongo* establishment in the Western Provinces, and with a view to restore it to the efficiency which it formerly possessed under native Governments; and to secure to the Revenue and Judicial administration of the country all the advantages which under a proper organization of the system it is calculated to afford, I think that it would be advisable to alter the rules in force with respect to the appointment of *putwarees*, to the extent of rendering them the officers of Government and subjecting them to the

control of the *peram nah canom* 102, who should exercise their local authority under the general superintendence of one or two *sudder canoongas* residing at the station where the Collector's office is established

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Previously to concluding this Minute, which has been written under circumstances affording little time for the mature consideration which the importance of many of the topics above adverted to demanded, but which I have not now had the necessary leisure to bestow, I am desirous of stating my opinion of the nature of the effect which has been produced by the constitution and proceedings of the two Commissions.

After an experience of their operation during a period of four years, I have no hesitation in expressing my belief that the purposes for which the Regulation constituting them was enacted have been accomplished to an extent which fully justifies the views and expectations of the Government in framing it, and that whatever inconveniences may have been apprehended or experienced from the institution of an extraordinary tribunal invested with extensive power and directed to unusual ends, those inconveniences have been very limited in their operation, and are more than counterbalanced by the amount of good which has been produced, and by the augmented credit which has been derived to the humane and equitable character of the British Government from the redress of grievances which were originally inflicted by an erroneous and unjust proceeding of its own officers, and from the consequent reinstatement in their hereditary possessions of many families of old proprietors to whose rights and interests these proceedings had been most injurious.

The beneficent nature and salutary objects of the Regulation, the enactment of which may have originally produced some degree of apprehension and distrust are now, I believe, clearly understood and justly appreciated, and I am greatly mistaken if they have not served to impress on the public mind a stronger sense of the solicitude felt by the British Government for the happiness and welfare of its subjects, and for the security and improvement of their rights and interests.

(Sd) W. B. MARTIN,

The 1st September, 1825

[ENCLOSURE D].

MR. HARRINGTON'S *Minute*.

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Whatever the *mocuddumce* tenure may be in other parts of the country, it is established by the depositions to the *canoongos* and others, whom the *Mofussil* Special Commissioners have examined upon this point with reference to the *Zillah* of Cawnpore, that the ordinary *mocuddum* in that district is no more than a principal *ryot* in each village, employed on the part of the *zemindar* to superintend the cultivation and land rents of the village in which he resides; that he is paid by the *zemindar* for his services, sometimes in money, sometimes by an assignment of land free of rent, or at a low rate of rent; that such lands are not transferable by sale, gift, or other form of alienation: that the office of *mocuddum* usually descends from father to son, or to one of the same family selected for his fitness to discharge the functions of it, but that it is resumable in case of misconduct, by the *zemindar*, or if the village be held *kham*, by the officer of Government appointed to the charge of it.

2. At the same time it is evident from the inquiry and report of the Commissioners that little regard was paid to the exact designation of the landholders, or tenants of land, under the Native Governments which preceded that of the Company; that the *maliks* or proprietors of villages, were sometimes recognized by the public officers as *mocuddums* especially within extensive *talooks* or *pergunnah zemindarees*; and that, on the other hand, the village *mocuddums* frequently contracted with the *amils* for the revenue of the villages in which they were resident, under a vague and indefinite recognition, as *zemindars*.

3. It is, therefore, the duty of the Special Commissioners constituted by Regulation I., 1821 (and equally so of the ordinary Courts of Judicature, when investigating the titles of claimants to landed tenures in the Western Provinces), in passing their decisions upon claims to proprietary rights, to consider more the evidence in each case to the actual possession of such rights, than the designation, whether of *zemindar* or *mocuddum*, which may have been used in the *canoongo* records or other documents, of the former Government.

4 The *Mofussil* Commissioners in the 53rd paragraph of their report, have, I think, satisfactorily stated under what circumstances the ancient occupant of a village, though denominated a *mocuddum*, should, in default of a better title being shown by a *zemindar*, also in possession of a *zemindari* tenure in the same village, be esteemed the rightful proprietor of the soil, entitled to all the privileges of persons so described in the Regulations.

5 But in cases where the contest may be between an acknowledged *moculum* claiming a *zemindari* title, on one side, and a *zemindar*, where possession of a *zemindari* tenure in the same village may be clearly established, on the other side, I should, *prima facie*, hold the *moculum* to be according to usage subordinate to the *zemindari*, and require the most satisfactory proof of the actual exercise of a proprietary right on the part of the claimant before it should be admitted as adverse to the right and possession of the *zemindar*.

6 Unless there were reason to believe that Isharee Singh would be found entitled, on investigation, to a compensation for the surrender of the villages wrongfully obtained by his father, Surroop Singh, and now in his possession (which the Commissioners, in the 61st paragraph of their report do not appear to contemplate), I see no sufficient reason why the Government should indemnify him for the restitution of property so obtained, to the rightful proprietor, by giving up to him a lapsed *jaizir*, stated to yield an annual revenue of Rs 3,753.

7 Since the date of the letter from the *Mofussil* Commissioners' referred to in para 7b of their present report, Regulation XVIII, 1814, which they proposed to rescind, has been rescinded by Regulation XI, 1822.

But how far the provisions of that Regulation have remedied all the evils pointed out by them I am not fully informed. I rather fear, however, that they have not, as, with an exception to the cases provided for in the second, third, and fourth clauses of Section 3, Regulation XI, 1822 public sales for arrears may still take

place during any part of the year in which the arrear may become due ; and under the first clause of the same section the sale may be made by the Collector with the sanction of the Local Board of Revenue, whether any other process for the demand and recovery of the arrear shall have been previously issued or not. The sale may also take place, under the provisions of this Regulation, without the sanction of Government, which was required before the enactment of Regulation XVIII., 1814. If the Revenue Board do their duty in considering the necessity and equity of public sales for arrears when proposed by the Collectors, it may not be requisite to make a reference in each case for the sanction of Government. But I am of opinion that such sales ought not, in any instance, to be authorized without an equitable consideration of the stated cause of arrear ; and that they should, in general, be postponed till the close of the year (Bengal or *Fuslee*) in which the arrear may fall due.

8. The proposition contained in para. 77 of the Report of the *Mofussil* Commissioners for rescinding Section 15, Regulation XXV., 1803, is not supported by the members of the *Sudder* Commission, and the objections stated by the latter against the adoption of this measure appear to be well founded, although the private purchase of lands by public officers in the district where they are employed is undoubtedly open to abuse.

9. I do not understand from the Report of the *Mofussil* Commissioners whether any considerable number of *putteedaree* claims be still depending in *Zillah* Cawnpore, but 205 are stated to have been depending on the 1st June, 1825, in the district of Allahabad ; being nearly a moiety of the whole of the cases brought before the Commissioners in that district.

10. From the nature, intricacy, and multiplicity of those claims as described by the Commissioners, I entirely concur with them in opinion, that either such subsidiary claims should be left to the examination and decision of the revenue authorities at the approaching settlement, under the provisions of Regulation VII., 1822, which allow an appeal by the parties dissatisfied with the Collectors' sum-

mary process to a regular suit in the Civil Court, or that greater facility should be given to the despatch of business in the *Mofussil* Special Commission by adding to the number of Commissioners; or allowing a single Commissioner to investigate and determine the rights of *putteedars* on the spot, subject to appeal to the *Sudder* Commission.

11. The only objection which I see to the former measure (*viz.*, leaving those claims to be summarily adjusted by the Collector, subject to a regular Civil Suit) is the delay that must arise in many cases before they will be finally settled. But as this objection applies equally to similar claims in all the other districts where the Special Commission has not been employed, I am not aware that any sufficient reasons exist in the districts of Cannore, Allahabad, and Goruckpore, for a deviation from the general course of procedure which Regulation VII., 1822, has prescribed, for ascertaining the rights and interests of co-sharers in *putteedaree*, *thyachara*, and other joint tenures in the Western Provinces.

12. If, however, it be deemed on any grounds expedient, that in all cases wherein the Special Commission may adjudge the property and possession of lands to claimants found entitled thereto under the rules contained in Regulations I, 1821, and I, 1823, the nature and extent of the interests, not only of such claimants, but also of their coparceners, and generally "of all persons occupying the land in dispute or lands belonging to the same *mehal*" (as provided for by the seventh clause of Section 3, Regulation I, 1821), be determined, I think it will be advisable, with a view to greater despatch, that the *Mofussil* Commission in each *zillah* should consist of a single member, (as it may under Section 2 of the Regulation above mentioned) and that he should be empowered to investigate and decide all claims declared cognizable by the Special Commission in the first instance; subject to the appeal allowed in all cases to the *Sudder* Special Commission.

13. One of the Members of the *Sudder* Special Commission has proposed that the members of the *Sudder* Commission should also be empowered to sit singly. But I am not aware that the present state of the business before that Commission requires the adop-

tion of this measure. When it does, I see no material objection against extending to the *Sudder* Special Commission the substance of the rules prescribed for separate sittings before a single Judge of the *Sudder Dewany Adawlut*; though I cannot think it conducive to the ends of justice that any Court of final judgment should consist of a single Judge when circumstances may admit of the regular sittings being held before two or more Judges.

14. I have only time to add that the suggestions of the *Mofussil* Commissioners for placing the *Canoongo* office in the Western Provinces in a state of greater efficiency, and for preserving the public records appertaining to it, appear to merit serious consideration.

Their concluding suggestion for allowing the aid of respectable *Tehseeldars* in the determination of disputed *Tehseeldars*. claims to the possession of lands, crops, wells, watercourses, and other premises, may also deserve consideration in any future enactment rendering such claims summarily cognizable by the Collectors, if they are not already authorized to employ their *tehseeldars* in the execution of all duties committed to them by the existing Regulations.

The 1st March, 1826.

(Sd.) J. H. HARINGTON.

No XII.

RESOLUTION BY THE GOVERNOR-GENERAL IN COUNCIL, DATED
13TH APRIL, 1826

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THE Governor-General in Council, having deliberately considered the above* papers, proceeds to record the following observations and orders —

* The papers forming
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2. It is satisfactory to observe the general concurrence of sentiment in regard to the practical operation of Regulation I, 1821, and the Governor-General in Council sees no reason to doubt that the labours of the Commission have done much immediate good and have been received with satisfaction by the native community.

3. Nor does his Lordship in Council doubt that the *Mofussil* Commissioners have exerted themselves to complete the duty assigned to them with all proper despatch

4. The actual progress made, does not, however, equal the expectations of Government, and as the benefit to be derived from such a tribunal must, in a special degree, depend on the celerity with which it affords redress, it appears to be necessary to consider the measures that should be adopted for expediting the investigation and decision of the suits which the Commission was constituted to adjust.

5. With this view it appears to his Lordship in Council to be advisable that, with certain restrictions, the Commissioners (*Mofussil* and *Sudder*) should be authorized to sit and decide singly.

6. Most of the questions of a general nature involved in the cases cognizable by the Commissions must, it is conceived, so far as concerns Cawnpore and Allahabad, have been determined; and on mere points of fact, the advantage of requiring the concurrence of two Judges appears to be outweighed by the delay and expense necessary incident to that arrangement.

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7. His Lordship in Council resolves, therefore, that the *Mofussil* Commissioners shall be authorized to decide singly all cases originating in the two districts abovenamed, the decision of which may not involve some general construction of law not already decided by the *Sudder* Commission, or some new principle of general application relative to the rights and interests attaching to landed property; the Commissioners being still competent to refer to each other cases of doubt and difficulty, though not falling within the above exception.

8. His Lordship in Council further resolves that the members of the *Sudder* Commission shall likewise be authorized singly to decide cases appealed to them, subject to the restriction above stated: and further subject to the provision that no judgment or order passed by the *Mofussil* Commission, or any members of it, shall be reversed or altered, except by the concurrent decision of two members of the *Sudder* Commission.

9. Whether any and what special provision shall be made for the district of Goruckpore, will remain for future consideration. A reference will be made to the Judicial Department to ascertain how far the services of the Judge of that district may be rendered available for the purpose.

10. Of the detailed points discussed in the above papers, the most important is that which refers to the adjustment of *putteedaree* claims.

11. It can scarcely be doubted that our public sales must, in most cases, have so broken asunder the whole constitution of the Village Communities within the estates sold, as that the mischief consequent upon them will be very imperfectly corrected by the mere restoration of the former *malgoozars*. If restored without any definition of their rights, those persons will probably seek to possess all the advantages possessed by the auction purchasers, and to profit by their usurpations on the privileges of the non-recorded proprietors, and the restoration of the estate may not only fail to secure for the general body of the people the recovery of their legal rights, but prove the occasion of fresh evils in exciting disputes and litigation.

12 It appears, consequently, to be very important that the definition of the rights of all the parceners in such estates should, if possible, accompany, and in all cases that it should closely follow, upon the reversal of the sale

13 The experience of the detailed settlements made under Regulation VII, 1822, seems to justify the inference that the inquiry is highly satisfactory to the people, and promises to prove the means of preventing much mischievous litigation His Lordship in Council is not aware on what grounds the *Muzul* Commissioners consider their interference to be restricted to cases of actual *bonâ fide* possession, as stated in the 3rd paragraph of their letter of the 24th February Indeed, the fact mentioned in the 5th paragraph shows that a different construction has been acted upon And the opinion has apparently been adopted from their having their attention exclusively directed to the seventh clause of Section 3, Regulation I, 1821, and from their overlooking the provisions of the fifth clause of the same section

14 Under the last mentioned rule, the claims of all persons who may have lost possession of any lands, or who may have been deprived of any property in the rent or produce of land belonging to a *malik* sold by public or private sale, are expressly made cognizable by the Commission, and there is no legal obligation on it to give the preference to the suit of the *sulter malgozar*

15 In such cases it appears to be advisable that they should, as far as practicable, decide at the same time on the whole of the claims before them and it is probable that, in most cases, if the question of the relative rights of the *sulter malgozar* and the non recorded parceners be taken up before possession is given to the former, disputes between the parties will be comparatively rare Whereas, if the late *malgozars* be restored without any provision being made for the rights of the non recorded parceners, the former will probably be found little less disposed to resist the just claims of the latter than the auction purchaser would have been if continued in his title

16 With respect to parties in possession, though it is doubtless very desirable to settle without delay the precise nature and

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extent of the tenures by which they hold, yet the risk of evil from restoring the original *malgoozars* without such a definition of tenures is less serious. The Commissioners should in all cases be careful so to word their decrees as that the rights of third parties may not be compromised, and that the restored *malgoozars* and all parties interested may be fully aware that the recognition of their title to the management, as well as their original admission to engagements with Government, does not in any way convey to them new rights of property beyond those which originally belonged to them.

17. Further, when any persons may claim the benefit of the rules in question, (whether in possession or not) the Commissioners should endeavour, as far as practicable, to include in their judgment all claims relating to the same *mehal*, so as to curtail litigation.

18. But in regard to parties not preferring claims and not in possession, it seems to be impossible to require the active interference of the Commission: and as to persons in possession of the property to which they are entitled, and not seeking the interference of the Commissioners, there does not appear to be any sufficient reason to anticipate in the case of *mehals* falling under the operation of Regulation I., 1821, the general inquiries to be instituted under Regulation VII., 1822, unless difficulties shall actually occur in giving possession of his rights to the original *malgoozar*, in the execution of the Commissioners' decree.

19. In cases in which the claims of parceners may be more than ordinarily intricate, and in which it may be found impossible to secure the agreement of the claimants, and difficult to procure at the *sudder* station of the *zillah* the requisite proofs, the Commissioner trying the case must postpone the decision of such claims, until he shall be able to proceed to the interior to hold a local inquiry.

20. The investigation and decision of such claims will naturally form the first duty to be undertaken on the return of the cold weather. In cases in which they may be combined with a suit to

reverse a sale, the local inquiry necessary to their development may frequently be found to afford information very useful towards the ascertainment of the real nature of the arrears for which the *mehal* may have been sold, and specially as to the validity of any claims to compensations that may be urged by the auction purchaser. Instead, therefore, of laying down any positive rule relative to the order in which the several points shall be decided, it appears to His Lordship in Council to be better (as seems heretofore to have been done) to leave a considerable discretion with the Commissioners, so that in cases in which it may be practicable to settle the rights of all parties without any material addition to the delay in affording redress to any of them, the Commissioners may in their decrees provide for the adjustment of all claims; and that in other cases in which the evil of postponing their decision on the suit regarding the sale may preponderate over the benefit of effecting a general adjustment of claims, they may proceed forthwith to decide that suit, leaving the relative rights of the original proprietors for future inquiry. It will, of course, belong to the *Sudder* Commission to see that no unnecessary delay is allowed to occur in the decision of cases of the latter description.

21. It will apparently be very useful that the Commission should, with the consent of the parties, refer disputes of the nature of those in question to arbitrators, and that, as provided by Clause 3, Section 33, Regulation VII., 1822, for cases referred to arbitration by Collectors, the *cancongors* and *tehseldars* should be available for the duty. His Lordship in Council is not immediately prepared to decide how far any new legislative enactment is necessary for this purpose. If it shall appear to be so, the *Sudder* Commission will, with reference to Sections 5 and 11, Regulation IX., 1811, prepare the draft of the required rule, together with that of such other provisions as may appear necessary to give effect to this Resolution.

22. With respect to the *mocuddunee* tenure, His Lordship in Council concurs generally in the view taken by the Commissioners. The information submitted by them clearly evinces the necessity of regarding (and the observation equally applies to the ordinary Courts when investigating the titles of claimants to landed tenures), rather the evidence in each case to the rights actually possessed,

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than the designation, whether *zemindar* or *mocuddum*, which may be used in the *canoongo* records or other documents.

23. In regard to the case of Ishuree Singh, His Lordship in Council is of opinion, that unless there were reasons to believe that that person would be found entitled, on investigation, to a compensation for the surrender of the villages wrongfully obtained by his father, Suroop Singh, and now in his possession (which the Commissioners in the 61st paragraph of their report, do not appear to contemplate), there is no sufficient reason why the Government should indemnify him for the restitution of property so obtained to the rightful proprietors by giving up to him a lapsed *jageer*, stated to yield annual revenue of Rs. 3,753.

24. With respect to public sales for the recovery of arrears of revenue, His Lordship in Council observes that the process is very rarely had recourse to in the Western Provinces, and that the Central and Western Boards of Revenue have been prohibited from confirming any such sales without previous reference to Government.

25. The proposition contained in paragraph 77 of the Report of the *Mofussil* Commissioners for rescinding Section 15, Regulation XXV., 1803, is not supported by the members of the *Sudder* Commission, and the objections stated by the latter against the adoption of this measure appear to be well founded, although the private purchase of lands by public officers in the district where they are employed, is undoubtedly open to abuse and should be jealously watched.

26. The suggestions of the Commissioners relative to the *canoongos* will be referred to the several Revenue Boards and to the Committee of Records.

27. The Boards of Revenue will be requested to consider the suggestions of the Commissioners for allowing the aid of respectable *tehseeldars* in the determination of disputed claims to the possession of lands, crops, wells, watercourses and other premises. Already those officers may be employed as arbitrators, and they may of course be required by Collectors to report on all cases cognizable

by them. It seems to be doubtful whether any original jurisdiction in such matters could safely be entrusted to them.

28. With regard to the new rules of practice proposed by the *Sudder Commission*, the most important of them has been already discussed. The proposed rule regarding pleadings seems to be unobjectionable, and both in the Commission and in the regular Courts it is most important that the Judges should bring the parties distinctly to issue on the essential points, as prescribed in Section 10, Regulation XXVI, 1811.

29. His Lordship in Council does not consider it expedient to make any alteration in the rules regarding Pleaders, and the adjustment of the compensation to be allowed to them.

30. The modified rule regarding the use to be made of the Revenue Papers appears to be entirely proper.

[ENCLOSURE I.]

From MRSSES. H. G. CHRISTIAN and W. W. BIRD, *Commissioners, Mofussil Special Commission*, to E. MOLODY, Esq., *Secretary to the Sudder Special Commission, Fort William*,—dated the 6th March, 1826.

SIR,—We have recently received from you precepts in a variety of cases, directing us to define the nature and extent of the interest [*hypoog*] vested in the original claimants, as prescribed by Clause 7, Section 3, Regulation I, 1821.

2. In one of those cases (*Mouzah Mohumulpore Dwan*) the extent of the claimant's share, as well as of the rest of the co-sharers, was defined by an award of arbitration, which award the *Sudder Commission* have confirmed, and we are not aware that any more remains to be done under the clause alluded to.

3. When the proportion of property belonging to each of the sharers in an estate has been defined by us, we consider the object proposed by the clause in question to be accomplished as far as possible. Before any more minute definition can be made, the *Chint* of which the supposed interests consists must be defined by law, for the parties themselves are unwilling or unable accurately to specify them, and maintain that, depending as they always must on various contingencies, their extent is indefinite.

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4. All therefore which can at present be done by us is to restore the former proprietors, or their descendants, to the property *sued for*, recording either of our own motion or on the application of the parties themselves, the exact proportion that belongs respectively to each ; and any attempt to do more, in the actual state of things, will overwhelm us with endless inquiries, disturb the quiet of every estate in which such interference is attempted, and give rise to universal dissatisfaction.

5. By Section 9, Regulation VII., 1822, provision has been made, since the establishment of the Special Commission, for ascertaining all these points at the settlement by means of the revenue authorities ; and it appears to us to be by far the most desirable plan, with a view to uniformity of decision, as well as to relieve us from a duty which we have no means of effectually performing, that the determination of such points be left to those authorities in the restored villages, in the same manner as in estates which have not been alienated.

6. Regulation I., 1821, as hitherto acted on, has done, and is still doing, the most extensive good ; but the inquiries into the nature and extent of relative rights and interests now for the first time directed by the *Sudder* Commission, have produced a great agitation ; and have a manifest tendency to defeat the restoration of property lost through sales, transfers, and errors of record, which was the primary object of our appointment.

7. Under these circumstances, we deem it necessary to request that copies of this letter and of our two former ones on the same subject, be submitted as soon as convenient, through the usual channel, for the consideration and orders of the Right Hon'ble the Governor-General in Council.

[ENCLOSURE II.]

From E. MOLONY, ESQ., Secretary, to the Sudder Special Commission, to H. MACKENZIE, ESQ., Secretary to Government in the Territorial Department,—dated Fort William, 23rd March, 1826.

SIR,—With reference to my letter of the 9th instant, I am directed by the *Sudder* Special Commission to forward a

further letter received from the *Mofussil* Special Commission, together with the Minute recorded by Mr. Ross, the Second Member of this Commission, for the consideration and orders of the Right Hon'ble the Governor-General in Council.

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Remarks by Mr. Ross on the Mofussil Special Commissioners' letter, dated 6th March.

In the preamble to Regulation I. of 1821, the objects to be accomplished by the *Mofussil* Special Commission are distinctly stated to be, not only the restoration of *zemindars* to the estates of which they were wrongfully deprived within the period mentioned in the Regulation, but also the restoration of *putteedars* and all other occupants of lands in the *mehals* or estates coming under the cognizance of the Commission, to the rights usurped from them within the same period.

The last-mentioned sufferers were supposed to form the most numerous class of those who were injured by the maladministration of the revenue lands; and Clauses fifth, sixth, and seventh of the 3rd Section of the Regulation contain the provisions intended for affording them redress, and for securing them against future usurpations; and it is quite obvious that this intention can be effected only by ascertaining and defining the real rights of those who suffered, and of those who committed, the encroachments to be corrected.

The end proposed by these provisions cannot be accomplished, as the Commissioners conceive, by merely defining the proportion of property belonging to each sharer of an "estate," unless the whole of the lands are occupied by the *putteedars* or sharers. Where there are other occupants, the intention in regard to them would not be fulfilled by such a definition.

As to the impossibility urged by the Commissioners of defining interests before the things of which they consist have been declared by law, I would observe that if the interests actually do exist, the things of which they consist must be capable of being ascertained, and must be ascertained before they can be declared; and that to make such ascertainment in the cases coming before the Commis-

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sion, is among the duties which it has to perform. The task I allow is one of difficulty and trouble; but if it were attempted on the spot where the lands are situated to which the interests to be ascertained are supposed to attach, it might be found not impossible.

The objection of the Commissioners to their being required to make the inquiries directed, *viz.*, that “such inquiries will disturb the peace and quiet of every estate in which such interference is attempted and give universal dissatisfaction,” is equally valid against those inquiries being made by the revenue authorities, as is proposed by the Commissioners. How far this objection is deserving of consideration, Government will be enabled to judge from the effects produced by the inquiries of the same nature, which have been already instituted by the revenue authorities under the provisions of Regulation VII. of 1822.

In regard to the objection that these minute inquiries “have a manifest tendency to defeat the restoration of property lost through sales, transfers, and errors of record,” it amounts to this, that the other objects of the appointment of the Commissioners, namely, the definition of the nature and extent of the interests adjudged with the property restored, and the restoration and future security of subordinate rights and tenures, cannot be accomplished by them.

I am disposed to concur with the *Mofussil* Commissioners that the Commission, constituted as it is, cannot effect all those objects. The question therefore to be now decided is, whether it will be most advisable to render the Commission efficient for the fulfilment of all its duties, by enlarging the powers and adding to the number of its members, or to dispense with those of its duties which under its existing constitution it cannot perform, and sanction the course of procedure which has hitherto been pursued.

By adopting the latter alternative, those of the objects proposed by the enactment of Regulation I. of 1821, which, as I conceive, were calculated to prevent the principal evils to be apprehended from its operation, must be relinquished, and I think it may be questioned, whether after the relinquishment of those objects, the advantages to be derived from the labours of the Commission will

be sufficient to counterbalance the disadvantages that will accompany them.

The whole of the advantage to be derived can only amount to the benefit received by the few individuals restored to the possession of the lands claimed by them. The disadvantages which may accompany this single advantage include the evil suffered by the individuals dispossessed to make room for those restored, the confusion arising from the probable disturbance of existing village arrangements, the risk of a repetition of the encroachments on the rights of the village communities which followed the preceding change of proprietors, and the distrust which may be created in regard to the security of property derived from sales in general.

In this view the disadvantages appear greatly to preponderate. But in evaluating it, it is proper to notice that, as those of the ousted hereditary *chundlers* who have all along continued to reside in their villages, and to manage the village concerns, will perhaps have little immediate inducement on their restoration either to disturb existing arrangements or to encroach on existing rights, much of the evil that might otherwise be apprehended from such disturbance and encroachment will not perhaps be actually experienced.

The *Madras* Commissioners mention two former letters written by them on the subject of their present address, I have seen only one of those letters.

[ENCLOSURE III]

From Messrs H G CHRISTIAN and W W BIRD, Commissioners
Member Special Commission, to F MORSON, Esq., Secretary to
the Special Commission, Fort William, dated Allahabad,
the 21st February, 1826

SIR,—On the 14th of this month we submitted, for the information of the Special Commission, copies of minutes recorded by us respectively on the subject of the proposed new rules of practice. Thinking, however, as we do, that the ultimate success of our efforts will depend in a great measure on what may now be determined in regard to the adjustment of *pre-emption* claims, we

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deem it incumbent on us to make a further declaration of our sentiments on that question.

2. We have shown that the course of procedure suggested by the Second Member of the *Sudder* Commission is impracticable, without suspending the restoration of the original claimants, which in many cases would be an act of great injustice. If then, under the letter of the law as it now stands, no other course can be adopted, it necessarily follows that the law itself must be altered; and what we are now about to submit is with a view to recommend that such alteration be made accordingly.

3. The clause itself, which has given rise to this discussion, is Clause seventh, Section III., Regulation I., 1821. involved in considerable obscurity. It was, of course, intended by it to provide for the ascertainment of the tenures, rights, privileges, and interests of the agricultural community: but when these points are all ascertained, we are not authorized to restore, or even to enter on the public records the name of any individual who is not found *in bonâ fide possession* of some part of the land in dispute, or the produce thereof. Such individuals, therefore, who form no inconsiderable portion, must under the strict letter of the law be referred to the Courts for the recovery of the rights, interests, and privileges aforesaid, even after they have been defined by us, and questions of very considerable difficulty may hereafter arise as to how far such definitions are to be held binding on those authorities.

4. In fact, if the coparceners are to be restored, the point of possession must not be insisted on. The lands having been held immemorially in joint partnership or by the head of the family, there are but few estates in which the real nature and extent of the interests, actually appertaining to different individuals and classes, could have been defined when they fell into the hands of the present occupants. It would, therefore, be impossible for the subordinate claimants to produce proof of separate possession of any distinct share of the property. A *new division*, therefore, must be made, and this will be but imperfectly done, if those who were formerly questioned through the influence of their powerful relations are not advantageously with an equal degree of consideration.

5 So obviously desirable indeed is it that we should, when these inquiries are concluded, be authorized to give effect to them, that we have, under the express order of the *Sudder* Commission, restored numerous individuals never before in possession whose shares had been thus ascertained and defined by us, it is therefore necessary with reference to the past as well as the future, that the clause in question should be altered

6 We accordingly propose that it be rescinded, and that a rule be enacted in its stead which, without requiring the Commission in the restoration of any person to the lands claimed by him invariably to declare the nature and extent of the interests vested in such claimants, shall render it lawful for them to determine, either on or after the decision of the original point at issue, the proportion of the property in dispute belonging to each member of the coparcenary, to cause the names of such coparceners to be entered on the public records, and to put them in possession jointly or separately, as the case may be, of their respective shares, whether such coparceners should at any former time have been in the occupancy of any portion of the lands, or otherwise

7. A part of our last general Report was appropriated to the subject of subordinate tenures, and we are desirous that the sentiments of Government should be expressed thereon, before any new course of procedure be adopted. One of the measures recommended by us with a view to the prompt decision of these claims was, that the Commissioner employed to inquire into them should be authorized to refer cases of this description for adjustment to individuals of respectability and influence residing in the neighbourhood, whose acquaintance with the family history and domestic arrangements of the village community render them peculiarly well qualified to determine such disputes with ease and satisfaction.

8 But in the adjustment of subordinate claims by a reference to a third party, it would be impossible to conform to the rule contained in the clause in question according to its strict interpretation, as the award is generally given with reference to the actual rights of the contending parties without the possibility of ascertaining particularly on which side of the question the balance of justice lies. It is, as it would be unjust to set aside a third party's award merely because some of the parties were not

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apparently in the receipt of the rents or produce of the lands, in a mode to indicate the retention of proprietary right when the title to a specific portion of the general property may be no longer questioned.

9. If we were asked what, under the actual state of things, is the best plan for the disposal of these claims, we would say that they should be consigned altogether in the first instance to the revenue authorities. Under the uncertainty in which the tenures in question are involved, the destruction of all the *pergunnah* records (which were alone capable of throwing any useful light on the subject) the impossibility of procuring disinterested or credible testimony, and the falsehood and dishonesty of all parties, these disputes never can be settled within any given period, much less is it probable that they should be finally set at rest by a temporary tribunal without a single *Mofussil* Officer, European or Native, under its control to assist in procuring local information.

10. As there is reason to apprehend that disputes of the above description will be constantly re-appearing in different shapes, we are disposed to think that these investigations would be more effectually conducted by a permanent authority like the Board of Revenue, before whom all such questions must come at the settlement under Section IX. Regulation VII., 1822, and who, through the means of their local officers, both European and Native, especially if the suggestion contained in the 109th paragraph of your report above mentioned be attended to, will have the greatest facilities for adjusting them. Should this duty, however, continue to be attached to us we shall do our best to perform it, but we hope in that event to be allowed to pursue the course which experience convinces us is the only one by which success can possibly be attained through our instrumentality.

We have, &c.,

H. G. CHRISTIAN,

Commissioner.

MOFUSSIL SPECIAL COMMISSION: }
Allahabad, the 24th February, 1826. }

W. W. BIRD,

Commissioner.

No. XIII.

REVENUE DEPARTMENT (WESTERN PROVINCES), DATED 2ND
JANUARY, 1823

From THE HON'BLE COURT OF DIRECTORS TO THE GOVERNOR-GENERAL
IN COUNCIL.

1. Our 1st letter to you in this department was dated the 10th September, 1828.

2. We now reply to your letter dated the 31st of May, 1827, in which you bring down the narrative of your proceedings connected with the *Sudder and Mesquit* Commissions, constituted by the Regulation I. of 1821, to the end of the year 1826; and in connection with this letter we shall also notice more fully than has yet been done, such parts of your previous correspondence as have a reference to this subject, namely, your letter dated the 10th of August, 1821; paragraphs 176 to 178 of your letter dated the 1st of August, 1822; and paragraphs 88 to 89 of that dated 30th July, 1823.

3. You state that you had "postponed the discussion of the necessity, and the general and practical effects of the law in question, till the completion of the proceedings pending in the district of Cawnpore." The final reports, with the minutes and resolutions relating to the Cawnpore suits, having been at length received and recorded, you have transmitted to us, together with a narrative of the transactions, a statement of your views and sentiments on the subject. And as we have now before us materials on which a judgment may in some degree be founded, we shall enter into a more full consideration than in our former communications, both of the policy of the Commission, and the manner in which the objects of it have been pursued.

4. The facts which you have laid before us as constituting the call for a remedial measure of the nature of that in question, could not fail to make upon us an impression similar to that which they had previously made upon you. It was declared in the preamble

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of the object, the law was to be effectually applied to it ; if it was not equal, an extraordinary remedy was to be sought for.

6. The attention of the Government was strongly directed to this important subject in September, 1820, by Mr. Stuart, one of its members, who, in a very important document, his Minute dated on the 29th of that month, not only pointed out the nature and extent of the evil, but also maintained that the Courts of law were wholly inadequate to afford a remedy, and recommended a Special Commission as the proper organ for effecting it.

7. The course which the Government pursued was in accordance with the views of Mr. Stuart, though it met with strong opposition and remonstrances from the members of the *Sudder Adawlut*, who seemed to argue as if redress should either be afforded through the Courts of law, or not afforded at all.

8. It appeared to us that the statements of those who maintained the insufficiency of the Courts of law, were not invalidated by what was objected to them ; and that the representations were substantially correct. Mr. Robertson, Judge and Magistrate of Cawnpore, who in two letters dated the 8th of December 1818, and the 9th September, 1820, presented to Government a striking picture, from personal observation, of the state of that Province arising from the extensive transfers of property which had been effected by iniquitous means, adduced a variety of proofs to support his opinion of the incompetence of the courts of civil judicature to afford redress for evils of the nature and extent of those to which he was then calling the attention of Government ; and Mr. Stuart, in his Minute above referred to, says, "the investigation of these cases with any hopes of success, will require a thorough research into voluminous and complicated revenue accounts. It will require local inquiries, and free and constant communications with the parties themselves, and with the local officers. The delays and forms of the Courts of justice oppose great obstacles to their conducting investigations upon those principles, and the parties injured are equally incapable of supporting the expense of protracted litigation, and of defending themselves in that course of proceeding against the arts and intrigues of their opulent and powerful adversaries." Among other circumstances proving the incompetence of the established

Courts to the exigence of the cases in question, the preamble to the Regulation adduces the following important consideration—"The Regulations applicable to the Provinces in question having been necessarily founded on incomplete information, are in many respects defective, so that several points requiring a distinct declaration of the views and intentions of the Legislature relative to the privileges designed to be invested by a settlement in the *sudder malgoosar*, or conveyed to the purchaser by a public sale, as well as in regard to the extent of the authority vested in the revenue officers in deciding on the mode in which the public revenue is to be managed or collected, still remain to be settled, and cannot yet be settled by a general legislative enactment without risk of error." The Preamble then states, that the ordinary Courts, which cannot be allowed to deviate from the strict course of law on individual views of expedience or justice, cannot avoid producing cases of great hardship, and in an equitable point of view, exceedingly to be deplored, when acting upon the strict letter of an imperfect law. And it thence infers that in such conjunctures a separate jurisdiction, partaking of the nature of a Court of equity, is the well known, the tried, and appropriate remedy.

9. The case certainly appeared to us to be decided when it was fully established that a great amount of evil, the result of substantial injustice, did exist; and that the ordinary Courts were not adequate to furnish a remedy. The forms of law exist as means for the prevention of such evils; and it is unreasonable that the end should be treated as subordinate to the means. It was indeed alleged by the opponents of the measure, that any attempt to provide a remedy for evils accruing through the operation of law, by other means than those which the law prescribes, would open a door to the evils of a still more serious nature, by lessening the confidence of the people in the decisions of law, and depriving them of that sense of security on which the value of all rights depends. But we saw not sufficient reason for apprehending those unfavourable consequences. When the operation of law is interfered with by any extraordinary means in those cases only in which its defects stand in need of a remedy, such a proceeding confirms its operation in those cases in which it really answers its end, and strengthens rather than impairs the salutary confidence of the people. The

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state of India, besides, presents occasions for such remedial proceedings more numerous than occur in those countries in which the securities of law are more perfect, and where the people are less accustomed to confound law with authority.

10. We have before us the proceedings in this case to the 15th of March, 1827; and, in your letter of 31st May of that year, your review of these proceedings down to the end of 1826. The several monthly and annual reports of the *Sudder* Commission, and the general report of the *Mofussil* Commission on the proceedings in Cawnpore, put us in possession of the facts; and your letters and the minutes of the *Sudder* Commissioners make us acquainted with the reflections and suggestions which the progress of this measure had raised in the minds of those in whose opinions, from their experience and knowledge, we have the greatest reason to confide.

11. The first thing which requires remark in the history of these proceedings, is the evidence which they afford of the extent of the evil for which the remedy was provided. It is with great pain we have been made to see, that under our Government it was possible that so many unoffending individuals should be defrauded of their property through the supineness or ignorance of our servants, by the knavish practices of their subordinate agents.

12. Among the most important of the results of the present inquiry is the full elucidation it has afforded of the errors by which evils of this nature were allowed to take place under your Government; because we may trust that the knowledge of these errors will operate in all time to come, as a security against the recurrence of similar evils.

13. The errors which were mainly operative on the present occasion were derived from the same source, to which we so often have had occasion to trace the mistaken measures by which the good intentions of our Governments in India have occasionally been frustrated. The conclusions to which the superintending officers were led in the management of the affairs which have thus had to be revised, were dictated to them much more by the associations which they brought with them from their native country than by the requisite search into the particular circumstances of the several cases in which they were required to judge and determine.

14. In England there are names which carry with them the idea of certain definite rights, more especially in the land. The terms freeholder, copyholder, leaseholder, denote persons to whom an ascertained amount of rights belongs, and are terms which may, in general, be safely taken as evidence of such rights. *Zemindar*, *moculdum*, *malgozar*, and other names, were found by our servants attached to parties in India having rights in the soil; and they applied to them the same sort of construction as that to which they were accustomed in regard to the names in England, which do denote certain determinate rights in the land. The consequences were very unhappy. Wherever they found parties bearing any of the above-mentioned names, they supposed them to be owners of a certain fixed amount of rights; and when they were called upon to make an award, they too frequently made it in conformity with this anticipation: that is, they assumed those same names, *zemindar*, *moculdum*, and so on, as being in themselves conclusive evidence of the existence of certain rights, without seeking any further evidence on the subject, or making the proper investigation of the case; and in that manner frequently awarded rights to parties which did not belong to them, while they necessarily, by the same act, took away from others the rights which were truly theirs. Among these prepossessions of the English functionaries, none seem to have more frequently led them into errors than their free conceptions with regard to the parties who engage with Government for the Revenue payable from any portion of the land. In England it generally happens that he who holds land immediately of the Sovereign, and between whom and the Sovereign there is no intermediate holder, has the full property in the land; and where there are other parties who have an interest in the same land, it is an interest held of the first party, and dependent upon him. The Collectors and Judges under our Governments in India seem at first to have very generally proceeded upon a similar idea with respect to the party whom they found in the established practice of engaging with Government for the assessment of the lands, whether of a village, or any greater extent; that is, they regarded him as proprietor of the lands, in their own sense of the word proprietor, and the interests of all the other inhabitants as included in his all-comprehending interest, and dependent upon it.

15. The evidence elicited by the inquiries of the Commission, and the express declaration of your Government, founded upon that evidence, appear to us to have answered the important purpose of exposing these errors, and of affording us security against the evils which they have been found to produce.

16. The report on Cawnpore by the *Mofussil* Commission, dated the 1st July, 1825, says, "None of the different Governments preceeding ours, as far as we can judge, were actuated by the smallest concern for the preservation of rights in regard to land; their sole object seems uniformly to have been to acquire as much revenue as possible; and no importance was attached to the title under which individuals contracted for the discharge of the public demand. These contracts were renewed annually; and so little regard was paid by the local authorities to designation, that in many cases the identical individuals who were denominated *zemin-dars* one year, are recorded *mocuddums* of the same estate in another; sometimes they are found under both designations in the same year; and sometimes the names of persons recorded as in possession appear without any denomination at all."

17. In another passage the Commissioners say:—"Towards the latter end of the reign of the *Nawab Vizier*, Almas Ali Khan discouraged the continuation of large *talooks* and in many instances re-admitted the villago *maliks* to direct engagements. It does not, however, appear, that on becoming again directly responsible to the State, the title under which they were recorded was considered by them of the smallest importance. The ruling power, as already stated, attached no value to names, as implying a recognition of rights; and its subjects may be supposed, under such circumstances, as far at least as the public records were concerned, to have been equally indifferent. The individuals in question, therefore, when admitted to engage directly with Government, were recorded sometimes under one designation, sometimes another, and not unfrequently retained the title of '*mocuddum*,' which, in the first instance, appears to have been applied to their ancestors when the estates belonging to them were originally included in the *talooks* above mentioned."

18. With respect to the term *zemindar*, the report of the Commissioners says:—"If the Native powers considered all property in the soil to belong to the State, the *zemindar* could have been nothing more than an officer rendered responsible, by certain engagements, for the realization of the public revenue, and removable on the expiration of them, as this principle appears in deed to have been uniformly acted on. It was not until the accession of the British Government that any right in the soil was declared to be vested in the *zemindars*; and hence the importance which has been since attached to that term.

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"On the Cession of the country to the British Government, the principle on which the Commissioners for the settlement of the Provinces ceded were directed to proceed, was, we believe, to take engagements for the public revenue from the persons who might be found actually in possession of the land. But in Cawnpore this principle was, in many instances, not kept in view; and when it was, the original designations of the engaging parties were retained; designations which have since been proved in numerous instances to be wholly erroneous. In fact, the retention of these designations was fraudulently brought about by means of statements prepared by the Native officers, which led to the exclusion, both at the 1st, 2nd, and 3rd settlements, of a great many proprietors, who till then had been in possession under the designation of *moedlums*, on an erroneous idea, adopted by the European authorities, that a person bearing that title could not be proprietor."

19. Mr. Ross in the Minute, which, as one of the *Surver* Commissioners, he framed on the report of the *Mofussil* Commission, says, "the generally received opinion is, that the title *moedlum* does not confer any right of property whatever, but denotes the head or chief inhabitant of a village employed as manager for the *zemindars*. The result of the inquiries of the *Mofussil* Commissioners seems to me to establish the justness of this opinion; and at the same time is conclusive, I think, as to the fact that many individuals in the Ceded and Conquered Provinces mentioned in the revenue accounts as *moedlums* of the villages held by them at the time those Provinces came under the British authority, were "*zemindars* or *raias*," of those villages, and should have been ad-

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mitted to engage for them directly with Government, as the *zemindars*, or proprietors.

“The titles *zemindar* and *malik*, the Commissioners think, designated landholders having a right of property in the soil. The Commissioners, however, give no explanation of the precise meaning which they attach to the words ‘right of property in the soil,’ and they seem to have adopted those words merely because they are used in the Regulations which recognise the proprietary right of the *zemindars* in the lands comprising their *zemindarees*. But the right of property which the Regulations declare vested in the *zemindars* is assuredly not a right either of the same nature, or of the same value with that which is generally understood by the English words ‘property in the soil,’ namely, a right to realize and appropriate the whole of that portion of the produce of the soil which constitutes rent; for that is a right which has been exercised by the ruling powers in India for a length of time, and is expressly reserved to itself by the British Government, and exercised by it in those of its Provinces where the *jumma* or demand on account of the public revenue has not been limited and fixed in perpetuity. What the nature is of the right of property possessed by the *zemindars* in the lands composing their *zemindarees*, and what was considered as constituting a title* to that right under the former Governments, are points which have not yet been ascertained, and the present report throws no light upon them.”

20. To the expressions with which Mr. Ross concludes this passage, some restriction needs to be applied. It is true, indeed, that the report of the *Mofussil* Commissioners does not throw that light upon the question of the rights which former Governments assigned to *zemindars*, which would enable us to state them in one comprehensive proposition. But their inquiries have thrown sufficient light upon the subject to show that rights, in this general sense, were not constituted by former Governments at all; that the rights of the people called *zemindars* were continually varying, in one instance implying one thing, in another, another, and that no name applied to classes of individuals

* “The Commissioners do indeed say that there were some of the *zemindaree* privileges which only the *zemindar* enjoyed, when the *zemindaree* was held *khas* or let in farm, but they do not tell what those privileges were.”

in India, can be taken as proof of any fixed aggregate of rights belonging to them. This important fact was more correctly stated by Mr. Harington in his note, dated 1st March 1826, where he says, "at the same time it is evident, from the inquiry and report of the Commissioners, that little regard was paid to the exact designation of the landholders, or tenants of land, under the Native Governments which preceded that of the Company; that the *maliks*, or proprietors of the villages were sometimes recognized by the public officers as *moocuddums*, especially within extensive *talooks* or *pergunnah* zemindaries; and that, on the other hand, the village *moocuddums* frequently contracted with the *amils* for the Revenue of the villages in which they were resident, under a vague and indefinite recognition as *zemindars*."

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"It is therefore the duty of the Special Commissioners constituted by Regulation I., 1821 (and equally so of the ordinary Courts of judicature, when investigating the titles of claimants to the landed tenures in the Western Provinces), in passing their decisions upon claims to proprietary rights, to consider more the evidence in each case to the actual possession of such rights, than the designation, whether of *zemindars* or *moocuddum*, which may have been used in the *cansongo* records, or other documents of the former Government."

21. In the Resolution of Government, under date the 2nd of April, 1821, some judicious instructions on this subject were addressed to the Special Commission; and by that under date the 13th April, 1826, we are happy to perceive that conformity to the same view of the case was made an established rule. "With respect to the *raazulmumee* tenure, his Lordship in Council concurs generally in the view taken by the Commissioners. The information submitted by them clearly evinces the necessity of regarding (and the observation equally applies to the ordinary courts when investigating the titles of claimants to landed tenures) rather the evidence in each case to the rights individually possessed, than the designation, whether *semi-lie* or *moocuddum*, which may be used in the *cansongo* records or other documents."

22. From all the elucidations which the state of property in the soil has received, both from the present and preceding inquiry

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it seems to be established, that there are but two points which can be received as fixed and decided ; and those are, the right of the Government to a certain revenue from the land, and the rights of the hereditary occupant cultivators. The demand upon the cultivators is indeed various, being only fixed, where fixed at all, by a vague understanding as to the custom of the place, to which a certain respect was paid even by the arbitrary Governments which preceded ours. These two classes of rights, the rights of the hereditary cultivators and those of the Government, constitute the principal part of the law as regards landed property in India. The other parties who have an interest in the soil vary in almost every district, often in every village. The rights even of parties who go by the same name, are so various, that they can seldom be ascertained, except by collecting the evidence appertaining to the particular case ; and their interest is always to be considered as dependent on those of the primary parties (*i. e.*, the Government and the proprietary *ryots*) and as embracing only what remains after the rights of the Government and the *ryot* are secured.

23. Not only has the operation of the Commission under Regulation I. of 1821, had the happy effect of redressing a great amount of individual hardship and injury, it has also produced a most favourable impression on the minds of the people, as is fully and candidly acknowledged by Mr. Martin, one of those by whom at first the measure was condemned.

24. In the conclusion of his Minute on the report of the *Mofussil* Commission, Mr. Martin says, “previously to concluding this Minute, which has been written under circumstances affording little time for the mature consideration which the importance of many of the topics above adverted to demanded, but which I have not now had the necessary leisure to bestow, I am desirous of stating my opinion of the nature of the effect which had been produced by the constitution and proceedings of the two Commissions.

“After an experience of their operation during a period of four years, I have no hesitation in expressing my belief, that the purposes for which the Regulation constituting them was enacted, have been accomplished to an extent which fully justifies the views

and expectations of the Government in framing it, and that whatever inconveniences may have been apprehended or experienced from the institution of an extraordinary tribunal, invested with extensive power and directed to unusual ends, those inconveniences have been very limited in their operation, and are more than counterbalanced by the amount of good which has been produced, and by the augmented credit which has been derived to the humane and equitable character of the British Government, from the redress of grievances which were originally inflicted by an erroneous and unjust proceeding of its own officers, and from the consequent reinstatement in their hereditary possessions of many families of old proprietors, to whose rights and interests these proceedings had been most injurious.

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"The beneficent nature and salutary objects of the Regulation, the enactment of which may have originally produced some degree of apprehension and distrust, are now, I believe, clearly understood and justly appreciated; and I am greatly mistaken if they have not served to impress on the public mind a stronger sense of the solicitude felt by the British Government for the happiness and welfare of its subjects, and for the security and improvement of their rights and interests."

25. The other two members of the *Sudder* Commission, Mr. Ross and Mr. Pattle, express themselves in their respective minutes to the same effect.

26. The general view which the information now before you enabled you to take of the proceedings of the Commission, up to a recent date, led you necessarily to a comparison of the extent of the means which you were employing with that of the end which it was your purpose to attain.

27. Saying your "satisfaction to observe the general concurrence of sentiment in regard to the practical operation of Regulation I, 1821, and your seeing no reason to doubt that the labours of the Commission have done much immediate good, and have been received with satisfaction by the native community, as also that the *Muzdar* Commission have exerted themselves to complete the duty assigned to them with all proper dispatch," you nevertheless

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remark*, that "the actual progress made has not equalled the expectation of Government; and as the benefit to be derived from such a tribunal must in an especial degree depend on the celerity with which it affords redress, it was necessary to consider the measures that should be adopted for expediting the investigation and decision of the suits which the Commission was constituted to adjust."

28. If one tribunal was insufficient for the business to be performed, the obvious remedy was, if you had it in your power, to provide more. For this great end, a very practicable, and even easy, expedient was suggested by Mr. Ross. He proposed "to make each member of the *Mojussil* Commission competent singly to pass orders and give judgment, subject only to an appeal to the *Sudder* Special Commission, in all cases, which the Commission collectively is empowered to decide." This recommendation he supported by observing, that "for the dispatch of judicial business (and the business of the Commission is wholly judicial), it must be obvious that a single judge, having only his own opinion to form and to be guided by, is more than equal to two or any greater number sitting together, each having not only his own opinion to form, but those of his colleagues to combat, and all subject to the many interruptions and delays which they cannot but occasion to each other. For diligent and upright conduct in the discharge of the judicial functions, it must be obvious, too, that a judge sitting singly affords the best security, for when a man knows that he will receive the whole of the merit of good, and the whole of the disgrace due to bad, conduct, the motives inducing him to exert himself to do well must be greatly stronger than when he knows that the responsibility attaching to his situation will be shared with him by others. In favour of a plurality of judges sitting together, I am aware but of one argument that can be urged, which is, that the greater the number of judges, the greater must be the probability of right decision. The force of this argument, however, is not so great as it appears to be; of two or more judges appointed to sit together, in all probability one will be superior in ability to the others; and surely the opinion of that one is

* Resolution of Government, 13th April, 1826.

not likely to be improved by the aid of the others. The joining of them with him, therefore, can produce no other effect than that of obstructing his proceedings in the case under trial, and preventing them from being usefully employed in the trial of other cases*; if all were equal in ability, it is indeed possible, but only barely possible, that by the suggestions of each other in discussing the merits of a difficult case, they might collectively be enabled to arrive at a better judgment than any of them sitting singly would come to. But this advantage, if even attained, would be so small, and the cases of difficulty likely to occur, in which it would be wanted, are so few, that it is hardly deserving of consideration, and certainly must be deemed insufficient to outweigh the disadvantages which must be submitted to, in order only to have a chance of obtaining it. It is only when a party concerned is dissatisfied with a decision of a single judge that the opinion of another judge can be necessary; and then the appeal should be made, not to a single judge of the same Court, or of the same rank with him who first tried the case, but to a judge of the Court of last resort, who, from his larger experience and approved knowledge, must be presumed to be better qualified than a judge of inferior station to perceive and correct any error that may have been committed in passing the decision appealed from."

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29. Mr. Harington concurred in this suggestion, and you finally adopted it, with the restriction that a single judge should not pass "a decision involving some general construction of law not already decided by the *Sudder* Commission, or some new principle of general application relative to the rights and interests attaching to landed property; the Commissioners being still competent to refer to each other cases of doubt and difficulty, though not falling within the above exception." You also extended the same power, and with the same restrictions, to the *Sudder* Commission, and gave a power of referring to arbitration cases in which the several interests of the parties sharing an estate may come into dispute.

* "It must be presumed that the least able of the judges of Courts, in which there are two or more judges, is qualified to try and decide the generality of the causes which come before the Court. If any of them is not so qualified he is unfit for his situation, and should not hold it."

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30. These new provisions having now been in operation for a considerable time, we shall receive with much interest the information which we presume will not be long delayed, of the effects which have been produced by them, and the degree in which they have contributed to the attainment of the objects in view. It may be expected that two judges, sitting in separate Courts, will get through more business than if they were employed together in hearing the same cause; and we shall be happy to find that your experience leads you to think that justice is administered not only more rapidly, but as well, under the new system as it was under that which has been abolished.

31. In Regulation I. of 1821, the Commissioners were empowered to ascertain and declare the nature and extent of the tenures and interests of all persons occupying the lands on which they passed any decision, or lands belonging to the same *mehal*; in fine, to ascertain rights and record the owners.

32. It had, however, been made a rule by the Commission, as is remarked by Mr. Ross, that in all cases the investigation on which a declaration of interest or rights must be founded, should be postponed till the question of right to possession should have been decided. "In conformity with this rule," he adds, "all the decrees which have hitherto been passed by the two Commissioners, awarded only possession of the contested lands or *zemindaree*. Both the nature and extent of the rights attached to the possession have been left undetermined."

33. This circumstance has introduced a discussion of considerable importance. It is contended by Mr. Ross that the spirit of the enactment in Regulation I. of 1821, requires that the declaration of the extent of rights of the parties having an interest in the land, "shall be inserted in the decree awarding possession of the disputed *zemindaree*, and, consequently, that the investigation on which the declaration is to be founded, must be made before any kind of a decree can be drawn up. A declaration, (he adds) both of the nature and extent of the rights and privileges vested in the proprietor of a *zemindaree*, and of the proportions in which each proprietor (if the *zemindaree* be the property of more than one) is entitled to share the profits and advantages derived from those

rights and privileges, is essential to the attainment of one of the principal objects of the enactment, namely, the adjustment of disputes among the *putteedars* or co-sharers, and the security of the subordinate tenures. The investigation necessary to the attainment of this object must, therefore, be made; and this being the case, the practice adopted by the Commission of postponing it, even if the law allowed it, I should consider unadvisable, as being productive of much inconvenience and loss of time. The consequence of it in *Zillah Cawnpore* is, that the *Mofussil* Commission must return to that *zillah* to complete its proceedings there.

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“In conclusion, I beg to observe, in regard to both the points of difference above stated, that under the construction of the Regulation adopted by the two Commissioners, only a small part of the good that was anticipated from their appointment can be attained; and that their proceedings, without being calculated to ensure even that small portion of good, must be productive of all the evils which cannot but attend the annulment of facts on which the titles of many individuals to the estates possessed by them are founded.”

34. On the other hand, the *Mofussil* Commission, in their letter, dated 6th March, 1826, urged various reasons to show the inexpediency of their defining rights, chiefly the length of time which the requisite inquiry would demand; and Mr. Christian, on the 8th April, in a minute which he prepared on relinquishing the office of Senior Commissioner, adduced the following considerations:—

“It has been already stated that it will be almost impracticable, from various causes, to define the nature and extent of private rights in the mode prescribed by Clause 7, of Section 3, Regulation I. of 1821; and if it be at the same time necessary to declare the conditions of the tenures of all persons occupying lands belonging to the *mehals* in dispute, it will be quite impossible to adjust the different interests connected with an estate, in the occupancy, for instance, of a tribe of Rajpoots, without the most minute inquiries, and no idea can be formed of the length of time that will be required for entering into such details. The privileges of the managing landholders being at present but imperfectly understood, and those of the cultivators having never been directly recognized,

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it is impossible satisfactorily to pronounce upon them, until more information has been obtained than can possibly be elicited by a tribunal tied down by judicial forms, and unconnected with the local authorities, and which has no jurisdiction but in cases where the parties have been in *bonâ fide* possession within a limited period.

“ In defining the rights even of acknowledged *zemindars*, there is a difficulty not easily surmounted. In every case three things are to be considered, *viz.*, law, usage, and possession; but it has not been stated which of them, where they differ, is to be adhered to. A sharer may be in possession of a larger portion of the ancestral property than by law he is entitled to, but which, for reasons sanctioned by usage, has been long enjoyed by him; he may also be in possession of a larger portion of property than he has a right to either by law or usage; and it does not appear that in such a case the Commission can do more than declare the exact portion which belongs to him, leaving the sharers by whom the excess may be justly claimed to recover it by a new process through some other authority, which should such authority take a different view of the subject, may tend, to create embarrassment.”

35. You were not, however, swayed by these reasons. In the Resolution of Government, under date the 13th April of the same year, you declare, “ it can scarcely be doubted that our public sales must in most cases have so broken asunder the whole constitution of the village communities within the estate sold, as that the mischief consequent upon them will be very imperfectly corrected by the mere restoration of the former *malgoozars*. If restored without any definition of their rights, those persons will probably seek to possess all the advantages possessed by the auction purchasers, and to profit by their usurpations on the privileges of the non-recorded proprietors; and the restoration of the estate may not only fail to secure for the general body of the people the recovery of their legal rights, but prove the occasion of fresh evils in exciting disputes and litigation.

“ It appears, consequently, to be very important that the definition of the rights of all the parceners in such estates should, if

possible, accompany, and in all cases that it should closely follow upon, the reversal of the sale

“The experience of the detailed settlements made under Regulation VII, 1822, seems to justify the inference that the inquiry is highly satisfactory to the people, and promises to prove the means of preventing much mischievous litigation. His Lordship in Council is not aware on what grounds the *Mofussil* Commissioners consider their interference to be restricted to cases of actual *bona fide* possession, as stated in the third paragraph of their letter of the 24th of February. Indeed, the fact mentioned in the fifth paragraph shows that a different construction has been acted upon, and the opinion has apparently been adopted from their having their attention exclusively directed to the 7th clause, section 3, Regulation IV 1821, and from their overlooking the provisions of the 5th Clause of the same section.

“Under the last mentioned rule, the claims of all persons who may have lost possession of any lands, or who may have been deprived of any property in the rent or produce of land belonging to a *mehal* sold by public or private sale, are expressly made cognizable by the Commission, and there is no legal obligation on it to give the preference to the suit of the *sudder malgoozar*

“In such cases it appears to be advisable that they should, as far as practicable, decide at the same time on the whole of the claims before them, and it is probable that in most cases if the question of the relative rights of the *sudder malgoozar* and the non-recorded pargeners be taken up before possession is given to the former, disputes between the parties will be comparatively rare, whereas, if the late *malgoozars* be restored without any provision being made for the rights of the non-recorded pargeners, the former will probably be found little less disposed to resist the just claims of the latter than the auction purchaser would have been if continued in his title.”

36 And by section 17 of the rules of practice prescribed to the *Mofussil*, by the *Sudder* Commission, dated 29th of the same month, the *Mofussil* Commission are directed to be guided by the observations and orders contained in the above Resolution

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37. It is the less necessary for us at the present moment to state in detail our views of the course which you thus adopted, because your rules have been some considerable time in operation, and we may soon expect to receive an account of what your experience has ascertained. It will be truly gratifying to us, if we learn that the *Mofussil* Commission have been able to join with the first and most immediately urgent question (that of right to possession), the determination of the extent of interest belonging to the several parties. To this latter point we attach the greatest importance; and till the rights of individuals are accurately determined, we see the difficulties in which both the revenue and judicial branches of your administration are placed, and the evils which uncertainty on this great concern necessarily entails upon the people. There must also, we are persuaded, be great advantage in deciding both sets of questions together; because the same evidence which proves the right to possession must often be evidence also to the extent of interest; and at any rate, the same persons and writings that yield evidence as to one of these points, must often be the great sources of evidence as to the other. The evidence in such instances might be collected with nearly the same trouble with regard to both points, as to one. Nevertheless, if experience distinctly prove to you that, for determining the strength of interests and defining rights, so great a portion of time was required as materially to retard the progress of the Commission in rectifying the great errors which had been committed in the administration of these Provinces, and in replacing the rightful owners of the land who had been fraudulently dispossessed, we trust that you did not fail to seek a remedy; and that you have either added proportionably to the powers of the Commission, by multiplying the number of Commissioners authorized to decide separately, or allowed them to proceed with the question of right to possession separately; both as it is urgent to redress an existing wrong without delay, and as the difficulties of deciding this question must daily increase from the loss of evidence. We see that you gave instructions to this effect in regard to *putteedaree mehals* in which you foresaw that the claims of all the numerous parties might occasionally produce inquiries both intricate and tedious; and we doubt not that the same good judgment led you to extend the sphere of those instruc-

tions, if experience proved to you that a greater extension was necessary.

38. We wait anxiously for information relative to this point, because it is upon the power of such a Commission as this to make settlement and registration of rights, that as we have on more than one occasion intimated to you, we build our hopes of seeing accomplished that great inquiry which you have instituted in the Upper Provinces. We have concurred with you in regarding this as the necessary foundation of any satisfactory and durable settlement of the land revenue; and as affording the means of determining with facility, and of checking for the future, disputes in regard to the rights of landed property. We have all along, however, felt great apprehension in trusting to such an extent, decision upon what is, or is not, to be every man's property, to inquiries performed by the Collectors, which may be sometimes more, sometimes less, careful, but must always be wanting in some of the most essential securities for good judicature. We have, therefore, looked with deep interest to the experience which might be afforded by this Commission; which, making its inquiries in a manner strictly judicial, would, under proper arrangements, form a species of tribunal fit to be trusted with those decisions; leaving to Collectors the task, not of deciding, but of bringing forward evidence and aiding inquiry.

39. We are happy to perceive that views on this subject, analogous to our own, have been entertained by an officer of so much experience, and of whose judgment we have so high an opinion, as Mr. Ross, who, in his Minute already quoted, says—"It is exceedingly desirable that the *Mofussil* Commission should be enabled to accomplish all the objects of its appointment, because in accomplishing those objects, it would be aiding most materially towards the completion of the great work commenced under the provisions of Regulation VII. of 1822, namely, that of ascertaining and defining the nature of the landed tenures, and the rights, interests, and privileges of the various classes of the agricultural community in the Ceded and Conquered Provinces. In fact, clause 7, of Section 2, of Regulation I. of 1823, requires the Commission to perform this work in every *mehal* or estate in which a claim to right of property is made to it; and there is scarcely a *mehal* or estate in which

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in which a claim, cognizable by it on some of the grounds stated in Regulation I. of 1821 and Regulation I. of 1823, may not be preferred to it.

“ On the utility of the great work referred to, I need not enlarge. A definition of the rights and privileges which it is its object to ascertain is, in short, necessary to their security, and to the welfare of the agricultural community; and until they shall be adjusted and defined, it is vain to expect that the disputes which must be ever arising respecting them can be satisfactorily decided by the ordinary Courts of justice, however excellent the constitution of those Courts may be, or that any very considerable improvement of the country will take place.

“ On the foregoing considerations, it appears to me to be very expedient to add to the *Mofussil* Commission as many members as the other exigencies of the service will admit, and also to make each member competent singly to pass orders and give judgment, subject only to an appeal to the *Sudder* Special Commission, in all cases which the Commission collectively is empowered to decide under the existing Regulations.

“ An extension of the powers of its individual members, as above proposed, is, I conceive, essential to give efficiency to the Commission; and I would hope that the great advantage which such an extension is calculated to produce, will be deemed sufficient to overcome the objection which may be urged to it.”

40. You have quoted, in your letter now under reply, passages from former despatches of ours, relating to certain other cases in which the power of passing decision on rights in the land has been assigned to the Collectors, and in respect to which we have signified our opinion that a judicial Commission afforded higher security for the requisite degree of correctness. You will perceive from what we have now stated in addition to those former remarks, that if the experience afforded by the Commission constituted by Regulation I. of 1821 prove satisfactory, we shall be disposed to extend very considerably the use of such an instrument of judicature, to multiply such functionaries in proportion to the demand for them, and to dispose in this way of all questions which cannot with equal con-

venience be decided by the ordinary tribunals, and which are of sufficient importance to require this extraordinary provision

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41 We observe with satisfaction, that the attention, both of the *Mofussil* and *Sudder Commissions*, and also of Government, has been particularly drawn to the case of the *putteedars* in *mehals* held jointly, which had been transferred by the fraudulent means which the Commission was instituted to redress. We trust, however, that the case of the ryots or immediate cultivators, who have hereditary rights in other *mehals* than the *putteedaree*, have not been overlooked. From the nature of the case, as well as the description you afford, we have no doubt that the rights of such ryots have been equally invaded. In para 33 of your present letter you say—"The reports and correspondence to which we have referred your Honourable Court in this address, leave hardly any room to doubt that the constitution of the village communities has been extensively affected and broken asunder by the operation of the public sales, which have been annulled by the decision of the Commissions, the evil therefore done to the community at large in any village so situated, would be but very imperfectly redressed by the mere restoration of the former *malgoockars*, who, if the extent of their individual rights remain unrecorded, would in all probability attempt to exclude the non-recorded proprietors, so that the mere restoration of the former recorded *malgoockars* would not only fail to secure to the general body the recovery of their legal rights, but would leave open a door for endless dispute and litigation. It was clearly, therefore, of importance, that the definition of the rights of all the parceners in such estates should, if possible, accompany, or at all events should closely follow upon, the reversal of the sale."

42 It gives us great pleasure to perceive that the important question of compensation due to such parties as might receive injury by being dispossessed in favour of the rightful owner, though they had come into possession without any fault imputable to themselves, has been attended with much less difficulty than was to be anticipated. We received with much satisfaction your declaration which an attentive perusal of the reports has fully confirmed, "that the individuals who have been deprived, by the decisions of the

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Commissions, of estates held by them, had for the most part acquired possession, directly or indirectly, by fraudulent means, and were therefore entitled to little or no consideration. To all those dispossessed who have reasonable claims to compensation, it has been liberally awarded; and maintaining, as we have done, the strictest watch over the operations of the Commissioners, we feel satisfied that if any cases have occurred in which the law has operated with unnecessary hardship to individuals, they must in their number and nature be so inconsiderable as not for a moment to be placed in competition with the benefits which have accrued to the people. We must at the same time state that no such cases have fallen under our observation."

43. It appears that, during the period embraced in the present narration of your proceedings, only one claim for compensation to any large amount, had been submitted to you. It would be superfluous to enter into the particulars of this case, which is not yet fully before us. Your decision is suspended till the issue of a reference to your Resident at the court of Oude, the claimant in question being distantly related to the king. It clearly appears that the question is one of liberality and policy, rather than of justice; for your conclusion is no doubt correct, that the party has no legal title to the compensation from your Government for which he has applied. Both you, however, and the *Sudder* Commission, think, that if he cannot recover the purchase-money of the land of which he has now been dispossessed from the parties to whom he paid it, and upon which parties he has an undoubted claim, his case is one which deserves indulgent consideration. We remain in ignorance of the probability, or the contrary, of compensations being obtained from those parties: you, of course, have taken such measures as depended upon you for securing it. If compensation, however, from those who owned it, has been found impracticable, we have no doubt that you have decided the question how far it was proper to carry the liberality of Government, upon a just estimate of the circumstances which it was necessary to take into account, and which are known only to you. Of these we expect from you a full statement; and when this is received, we shall be able to form a judgment of the case.

44 What we have now written will put you in possession of our views, generally, respecting the great subject treated of in the letter now under reply, and also, the opinions we have formed regarding the leading parts of your procedure. We doubt not that we shall have equal approbation to bestow when the completion of the undertaking will enable you to report upon the whole, and will afford us the means of calculating the consequences which are likely to ensue, and the use which may be made of the knowledge and experience which will thus have been attained. On the orders which you have passed in detail, and the subsidiary arrangements which you have seen fit to adopt, we see no occasion for remark. The whole are entitled to our approbation.

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We are, Your affectionate friends,

(Signed)

W Astell

J W. Loch

S Toon

R C Plowden

J Baillie

W Wigram

R T Farquhar

Henry Alexander

W. Masterman

J. R. Carman

G Raikes

J P Muspratt

C E Prescott

W S Clarke

H St G Tucker

London, 2 Jan., 1829

No. XIV.

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The claims of Shekh Kullen are interesting on account of the light which they throw on effects produced by summary settlements for the land revenue of large tracts of country with an intermediate agent, whether designated as *zemindar*, *talookdar*, or revenue farmer.

Shekh Kullen, known in the correspondence of the Western Board of Revenue as "Captain Shekh Kullen," from his having held the rank of captain in an irregular corps, in which he distinguished himself as a gallant officer, retired from the military service in 1810, and entered into a farming engagement with the Collector of Seharunpore for the land revenues of a portion of the lapsed *mocurrery* lands of the late *Rajah* Ram Dyal Sing. His contract extended over 149 villages, for 47 of which he contracted, with the concurrence of the persons who represented the local proprietors in engaging for the revenues of the villages with Government, and who are usually designated *malgoozars*; 34 were made over to him in consequence of the non-attendance of the former *malgoozars*; 55 in consequence of the village proprietors refusing to engage; and in 13, the Shekh had acquired the *malgoozary* interest either by private or public purchase, and for these he was admitted to engage as proprietor. The revenue authorities who concluded this contract having allowed three years to elapse without submitting it to Government for sanction, Mr. Ross, while Senior Member of the Western Board, visited the district of Seharunpore during the fourth year of the unconfirmed lease (or 1822), and being made acquainted with the arbitrary proceedings of Shekh Kullen, he recommended that, as his contract had not been confirmed it should be cancelled.

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A great oversight was, however, committed in not winding up all the conflicting claims of the revenue farmer at the close of *Fuslee* 1229 (1822-23), when his management for the 136 villages in which he had acquired no *malgoozary* interest, entirely ceased.

In December, 1826, Shekh Kullen brought forward claims to the extent of Rs. 1,29,000, on account of the profit which he would have enjoyed had the contract not been cancelled, besides various demands on account of advances and balances due to him by the village proprietors.

The Western Board, without entering into an explanation of the merits of the Shekh's claims, requested Government to authorize them to effect a compromise, by offering the late contractor Rs. 60,000 in full of all demands either on Government or the village proprietors.

On the 1st February, 1827, the Government decidedly refused to comply with this recommendation, and directed the subject to be fully investigated by the Collector of Seharunpore, under the superintendence of Mr. William Frazer, the Second Member of the Board.

Mr. Frazer's instructions to Mr. Reade show that Shekh Kullen had some claim for compensation. He observes, "under the sanction of one Board of Revenue the Shekh considered himself certain of holding on his farm for the full term (seven years). Another Board* cancelled his leases. For this single act the people and the Government are under the highest obligations to Mr. Ross; but the Government is not less responsible to Shekh Kullen for the losses† he may have been subjected to by the errors of its officers, and the still greater errors of its system," which Mr. Frazer designates "the wretched system of oppression and deceit, the laws" passed by Government "have so long upheld."

Mr. Reade thus describes Shekh Kullen's management:—"It was customary with this farmer to under-farm the villages to the inhabitants; and on each village, in proportion to its size, he raised his under-farming assessment from Rs. 200 to Rs. 600 or Rs. 700 above the Government *jumma*. After the end of the year, after the

* The members of the Western Board had been changed between 1819 and 1822.

† Mr. Frazer means deprivation of expected gains.

accounts had been closed, he made the defaulters execute bonds for the sums due to him on their engagements. The bonds or balances (forming one item of Shekh Kullen's claims) were principally due from villages thus situated. There was nothing usurious," Mr Reade observed, "in their nature, and though the *mocuddums* and cultivators might in the first instance have been led to engage with Shekh Kullen on very high terms through fear of his influence, or with a view to avoid the interference of his agents with the village management, yet having once engaged, there was nothing illegal in Shekh Kullen's making them execute bonds for the balances due at the end of each year on such engagements."

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It would appear that when Mr Reade instituted his inquiry into the origin of these bonds, the villagers loudly denied that they had ever executed them. On this point Mr Reade remarked that at the time the bonds were delivered over to Mr Cavendish (then Collector), the "people who executed them were quite clamorous on account of the farmer having retained a copy of each bond authenticated by the *cazee* of the place," a proceeding apparently inconsistent with the declaration that they had never executed the bonds, or that they did execute them on compulsion.

The villagers had likewise executed bonds to the farmer for advances of money to enable them to carry on their cultivation, but the amount on that account was not considerable, and this fact goes far to disprove the assertions contained in the petitions presented to Government by the late contractor, as to the large amount of the sacrifices which he had made to increase the cultivation, the benefits of which he had been deprived of by his leases of the revenue being cancelled.

The claims which have been admitted by Government are as follow

1 — The amount of bonds due by the cultivators to Shekh Kullen from *Fuslee* 1226* to 1228, but without interest. This claim amounts to Rs 7,226

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2nd.—The arrears of *tuccaree* advanced by Shekh Kullen in *Fuslee* 1229, previously to the contract being cancelled by Mr. Ross, with interest. The amount of those balances is stated at Rs. 2,413.

3rd.—Compensation for the expense of managing the cancelled contract till the close of *Fuslee* 1229, at the rate of five per cent. on the *jumma*, which would entitle Shekh Kullen, under this head of claim, to the sum of rupees 3,748.

The Government rejected the fourth and fifth heads of claim, namely,

4th.—Compensation on account of his contract having been cancelled within the period it had to run, although it had been approved and confirmed by the Board.

5th.—An indemnity for the expense which Shekh Kullen had incurred in prosecuting his claims, and for the delay in bringing them to adjustment.

Shekh Kullen was left at liberty to accept of the foregoing terms, or to seek his remedy in the courts. It does not appear from the proceedings at the India House whether the late farmer submitted to the decision passed by Government.

Thus the claims have been reduced to less than one-fourth, and with interest on the second and third items, to about one-fourth of the sum recommended by the Western Board of Revenue as a proper compensation.

The transactions which are detailed in the papers under consideration originated in Shekh Kullen's contract, which was cancelled by Mr. Ross. It would appear that the town of Roorkee, with seventeen dependent villages, had, on the death of *Rajah* Ram Dial Sing, within whose *moccurraree** the villages were situated, been settled with certain of the Rajpoot proprietors, without any previous attempt on the part of the revenue officers to define the rights possessed by those parties in the villages for the revenues of which they engaged. It would further appear that the engaging proprietors or *malgoozars* were, in one or two subsequent† settlements, in-

* Lands of which the revenue is alienated by the State, subject to a quit-rent.

† The revenue settlements in the Western Provinces of Bengal have been usually renewed every five years.

creased in number, without any minute examination being made into the interests possessed by each, in short, so long as the persons recorded as the *malgoozars*, or engaging proprietors, paid the Government *jumma*, it would seem to have been the practice of the revenue department to leave the adjustment of local taxation to those who engaged to collect it, and to pay a commutation for it. For several years the village communities appear to have escaped from the interference of a third party, but at length several of the recorded *malgoozars* were induced to borrow money from Shekh Kullen and to execute mortgage deeds*, to the two sons of Shekh Kullen, named Zamin Ali Khan and Nijabut Ali Khan. It was not, however, until after the general contract held by Shekh Kullen was cancelled by Mr. Ross, that the numerous fraternity of Ryypoot proprietors were made fully to feel the evil consequences of this arrangement. Soon after his contract had been suppressed, it became of importance to Shekh Kullen to obtain a *Regulation* tenure in all the villages in which he had established an interest. Accordingly, in 1823 summary actions were instituted against three of the recorded proprietors, named "Ram Buksh," who executed one bond, and against "Purbhat" and "Nychul," who had executed the other bond, or deed of conditional sale.

In December, 1823, the *zillah* judge, in consequence of Ram Buksh, Nychul, and Purbhat having neglected to defend the suit instituted by Zamin Ali Khan and Nijabut Ali Khan, passed an award. It stated that Nychul and Purbhat made a conditional sale of "the third portion of the sixth division of the town of Roorkee, seven-twentieths and one fortieth † of Ukberpore, and ten-twentieths of Salimpore", in satisfaction or in lieu of Rs. 525, due on certain days of season 1219 (1812-13). The decree

* The amount of these bonds at the end of 1826, including interest, is stated at about Rs. 1,700.

The principal sum of one bond was,
That of the other,

Rs. 525
304

Total,

Rs. 829

† This shows that the minute sub-division of the cultivating proprietary right existed in the Western Provinces of Bengal as in the other parts of India. So long as the collection of the land revenue was vested in an ancient family (that of the *Jajah*) it seems to have been respected and was exposed to usurpation only when it became subject to the British code which declared the proprietary right to rest solely in the parties recorded as the contractors for the Government revenue.

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against the heirs of Ram Buksh, who died in 1226 (1819-20), was in consequence, also, of a conditional sale of the "landowning of the sixth division of the town of Roorkee, the landowning of the half in Rampore, the holding of a fourth in Ukberpore," in consideration of Rs. 304 annas 13, paid to him by the above-named plaintiffs.

On the 16th March, 1824, the Civil Court forwarded to the Collector of Saharunpore copies of the recorded proceedings, and ordered the seizing of the plaintiffs in the lands awarded by the decrees. It is true that the Collector did not immediately comply with this order, as, on the 15th April, 1824, he referred the proceedings to the Court for a minute specification of the interests to be transferred to Zamin Ali Khan and Nijabut Ali Khan. This was accordingly done by the Court on the 17th April, and the Collector, according to the usual forms, placed the names of Zamin Ali Khan and Nijabut Ali Khan as the recorded proprietors of the shares stated to have been possessed by Ram Bukhsh, Nychul, and Purbhut, or their heirs, in the town of Roorkee and the dependent villages mentioned in the decrees.

Mr. William Frazer, Second Member of the Western Board of Revenue, in a Minute containing 261 paragraphs, denounces this proceeding as equally injurious to the village communities, to the Government, and to the existence of the British authority in India. Mr. Frazer repeatedly asserts that the unfortunate situation of Roorkee is by no means a singular instance of the evils arising from a technical application of the rules of the Regulations, without any attempt to ascertain and define the rights, interests, and things affected by those rules.

A decree, he observes, reaches the local executive authority from a distant and fixed tribunal. That decree directs certain acts to be done by the revenue department, which the latter feels cannot be executed without a fuller specification. The Collector requests the court to explain the interests which it had awarded to the plaintiffs; and this was supplied upon the *ex-parte* statements of the plaintiffs themselves, as the suit had not been defended. Had the *zillah* judge been anxious to escape error, he would have returned his decrees to the Collector, with a direction that those inter-

ests should be ascertained on the spot, but no such proceeding was adopted, as the amended decrees were returned after two days to the Collector, and within five more days were finally executed without the slightest manifestation of any error or injury having been thereby committed

When Mr Frazer proceeded through the district of Saharunpore on a tour of inquiry, in 1825, he received numerous complaints of the cruel injuries inflicted on the unrecorded shirers in the lands thus unconditionally transferred to the sons of Shekh Kullen. Mr. Frazer found that those "landowning" shirers amounted to 72 individuals, who, under the circumstances of the case, could only recover possession of their lands and rights by instituting regular suits in the Provincial Court at Bareilly, distant at least 130 miles from Roorkee. On receiving those complaints, Mr Frazer conceived that he was warranted in ordering a revision of the settlement. The Collector objected to act on Mr Frazer's instructions, and the whole of the proceedings respecting Roorkee were referred to the Western Board, the majority of which maintained that redress could only be procured to the injured parties by a regular appeal. This decision of the Board induced Mr Frazer to refer the case to Government, and to record his minute of the 7th September, 1826, which is evidently intended to induce Government to abandon its artificial system, and to devise a plan which would ensure to the people the enjoyment of those rights, laws, and usage, which the Regulations profess to respect, and were intended to uphold.

Mr Frazer remarks that "the words *zemindar* and *zemindaree*, *biswahdar* and *biswahdaree*, are generally applied in the Western Provinces to hereditary owners of land, and the prescriptive tenures of such owners." But, he adds in a note, that, "generally speaking, the landowning right among Hindoos is unalienable, more particularly so amongst Rajpoots, but there are," he observes, "different practices in different parts of the country." The lands of Roorkee are possessed by many families of Rajpoots, sprung from one stock. Those families enjoy equal rights, each male succeeds to a portion of land, his particular inheritance. He possesses collaterally a claim upon the whole lands, if all the shirers excepting

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a single individual should be cut off. In consequence of this rule of succession, no portion of the lands of Roorkee can be sold without the general consent of the sharers. In the case under consideration, "three individuals of the Roorkee community, it has been assumed, mortgaged and made a conditional sale of their own landed property, which was probably not saleable, and of that in actual possession of 72 others, to satisfy a private debtor, a transaction which," in Mr. Frazer's opinion, "was so absurdly fraudulent, that it required a stretch of faith to believe that it could have produced any result."

Mr. Frazer observes that, "when a revenue officer receives the precept of a court to execute, he is not bound down only to the full and literal execution, but to the right execution of the order, and the consequences might have easily been avoided, had the Collector sent for a few of the Rajpoots of Roorkee, and put to them a few simple questions," instead of "applying to the Court for information."

"The Court imagined that three men had the power to sell, and did sell, land, and land dues their particular property. The Court went no further. It pointed out the lands, or rather the nominal shares of land, to be taken from three people, who had mortgaged or sold the same; and it directed that the purchasers of the shares should become the engagers and payers of revenue." Mr. Frazer asks, "Ought it to have puzzled the Collector to execute this award? The shares of land subject to execution were to be separated. If this had been done properly, the true state of matters would have been laid open. The land dues or rights were to be recorded—a proper record would have unravelled the story. The new owners were to be placed in authority over the people concerned in the cultivation of the shares of the land of which they had become masters. The definition of the species of authority they were to exercise would have indicated the errors of the decrees. All this was passed over, and the Collector plunged into a reckless exercise of power."

The parts of the revenue system in Bengal to which Mr. Frazer most strongly, and, indeed, unanswerably objects, are, 1st.—The total want of definition of the amount to be collected from the

parties holding or cultivating the lands on which the burthen is roughly assessed, with reference to an assumed quantity of its produce: 2nd—The creation of hereditary farmers-general of the taxes, and thereby the transfer of the public contributions into the pockets of individuals. In Mr. Frazer's opinion, this was and is the evil of the permanent settlement in Bengal. "The error did not lie in fixing the assessment upon the land in perpetuity, but in sacrificing the rights, properties, and interests of millions to a class of landholders, thus constituted the fiscal tyrants of the multitude." He remarks, "In Upper India the intermediate engager is a party who preys both upon the people and the Government. He gives too little to the one, and takes all from the other."

As Mr. Frazer's Minute did not contain any specific proposition for the orders of Government, his opinions as to the remedy to be applied to the case under consideration were called for. Mr. Frazer, being satisfied that the system adopted in the Delhi territory of confiding the trial and decision of suits to native judges in the first instance had worked well, recommended that it should be extended to the Regulation Provinces. He proposed to leave all cases of Rs. 1,000 to be decided by one *Sudder Ameen*; cases of a larger amount, to two; cases involving a still higher amount, to three; the European judges to act only in appeal cases.

In the revenue department he suggested two alterations—to reduce the revenue instalments from eight to two, or at most four in the year; to make a record of landowners who have a right to pay revenue direct into the Collector's treasury. Every thing else, he observed, would be fruitless work until such a record was made.

After reviewing the transactions connected with the transfer of Roorkee to the sons of Shekh Kullen, the Government observed that "the case was certainly a very gross instance of the abuse of the forms and authority of the Court to answer the purposes of intrigue." With respect to the suggestions offered by Mr. Frazer, "it was observed that the reforms in question had for some time occupied the attention of Government."

Though the Government entirely concurred with Mr. Frazer in thinking that the summary decrees in favour of the sons of Shekh

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Kullen were illegal, and ought not, had the local officers, both in the judicial and revenue departments, thoroughly understood their duty, to have been made the medium of the serious injustice experienced by the numerous proprietors of Roorkee; yet as the mortgagees had actually got possession, it only remained for Government to afford aid to the aggrieved parties to obtain redress by an appeal to the superior Court at Bareilly in a regular suit.

Previously to the enactment of Regulation VII. of 1822, such *zemindars* as declined to enter into engagements with Government for the *mehals* or estates of which they were the recorded proprietors, and such *zemindars* as had been excluded from engagements in consequence of their having tendered an inadequate *jumma*, were not entitled to *malikana* unless they had enjoyed *nankar** allowance under the former Government, which was continued to them to the extent of 10 per cent. The seventh Regulation of 1822, which was intended to secure to non-recorded proprietors (that is, parties not recorded in the collector's books as engaging *zemindars* or *malgoozars*), the rights and interests possessed by them, and to restore them in all cases of illegal dispossession, rendered it necessary to provide for the maintenance of such *zemindars* as might either be excluded from the management of their *mehals*, or might abandon their engagements in consequence of this unlooked-for interference of the ruling power to define the rates of assessment within the *mehals*, of which they had been too long considered the undoubted proprietors.

* See Section 8, Regulation IX. of 1805, when the *nankar* exceeded 10 per cent. of the Government *jumma*, the excess was retained by Government.

II.—SELECTIONS REGARDING PERMANENT SETTLEMENTS OF THE LAND REVENUE, 1807.

No. I.

1.—FROM MESSRS. R. W. COX AND H. ST. G. TUCKER, TO ALL COLLECTORS, (CIRCULAR), DATED SEORAJPORE, THE 7TH SEPTEMBER, 1807.

SIR,—Before we adopt any measure for the formation of the ensuing settlement, we are desirous of receiving from you particular information respecting the present state of the district under your charge, as well as your own sentiments with regard to the nature of the settlement which may appear to you to be best suited to the country under existing circumstances.

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2. It is almost unnecessary to observe that principles which scarcely admit of a question, and which recent experience in the Lower Provinces may now be considered to have established in the most satisfactory manner, point to the expediency of limiting the demand of Government upon the land; and the Governor-General in Council, in enacting Regulation X. of 1807, has evidently had in view to extend to the Ceded and Conquered Territory the benefits which have already been realized in Bengal from the practical operation of those principles. The permanent settlement concluded in the Bengal Provinces has notoriously been attended with the happiest success, and the flourishing state of those Provinces must, we think, be ascribed in an eminent degree to that wise and salutary measure.

3. But we are at the same time equally ready to admit, that in undertaking a measure of such magnitude and importance as the permanent assessment of an extensive territory, the strictest attention must be paid to local circumstances, and that measures formed on the clearest principles may still be injudicious from being unseasonable.

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4. That the agriculture of a country is not likely to advance under a system of taxation which does not admit of the individual enjoying any benefit from the exertion of greater industry, cannot we think be doubted; and the Government that attempts to raise its demands upon the land in exact proportion to a supposed increase of its produce, will, it may be apprehended, place a bar to improvement, and destroy those means of wealth and prosperity which its subjects might otherwise enjoy, without adding to its own resources. Such a system indeed must operate to the prejudice of the Government itself, even if a distinction could justly be maintained between the prosperity of the people and the interests of the state.

5. We will not, however, do injustice to the important question by adverting in a cursory and unsatisfactory manner to arguments which have already been urged in favour of a fixed assessment with the best effect by much higher authority. We consider it to be a point established, that it is desirable to extend to the Ceded and Conquered Territory the benefit of a permanent settlement whenever circumstances may admit of it; and the chief object of our present reference to you is, to ascertain how far the present state of your district encourages an opinion that the ensuing settlement can be declared permanent (subject always, of course, to the final sanction of the Hon'ble the Court of Directors) consistently with a proper regard to the rights of the landholders and tenantry, and to the interests and just expectations of Government.

6. In considering this question it will occur to you that we shall require particular information on the following points:—

1st.—With regard to the present state of cultivation in your district, the proportion between the cultivated land and land at present waste or deserted, but capable of cultivation.

One of the objects of our reference to you, under date the 5th instant, was to obtain from the several *tehseldars* detailed information on this subject; and if those officers prepare with attention the statement required from them (the form of which has been sent for their guidance), we hope that it will furnish materials which will be found extremely useful in forming the ensuing settlements.

2nd —With respect to the population of the district, and the proportion which it may be supposed to bear to its agricultural powers—on this question we can, of course, expect only very general information

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3rd —With respect to the chief articles of produce, and how far it may appear to you that any improvement is likely to be effected hereafter by introducing the cultivation of more valuable articles, independently of the improvement which may be expected to arise from extending the cultivation of the district in short, we would wish to be enabled to form a judgment, not only of the present state of the country, but of those internal resources which it may be supposed to possess, and which can be rendered available by means of the extension of the improvement of its agriculture

It may not be in your power to furnish minute information on this subject, but we should wish to know your opinion generally, if it cannot be given on any particular grounds. The *tehseldars*, in preparing the statement which we have called for, ought to supply some useful materials

4th —With respect to the documents which you may possess to enable you to assess the public demand on the land in such manner as to furnish a fair presumption that the settlement can be rendered generally just and equal

We are aware that the Regulations provide specific rules for apportioning the assessment, and it is also unquestionable that in a country where so much depends upon the personal exertions of the individual, fluctuations in the value and produce of the land must be expected, but it is, at the same time, of the utmost importance that care should be taken to correct any considerable irregularities in the assessment, for as the land revenue bears so great a proportion to the actual produce, every means should be exerted to ascertain as accurately as possible the capacity of the different estates, in order that strict justice may be done to the parties, and that the interests of Government may not suffer from any disproportionate allotment of the public demand

5th —We are desirous of being informed whether it appears to you that the present situation and circumstances of the land

holders and tenantry constitute any objection to the immediate introduction of a permanent settlement; whether from the absence of the principal landholders, from their unwillingness to engage for their estates, from their inexperience or want of resources, from the proprietary right in the estates being generally contested, or other circumstances connected with this question, you are of opinion that the rights of individuals and the public interests would be best consulted by postponing the permanent settlement.

6th.—Whether it appears to you that in forming the ensuing settlement as directed by the Regulations, it would be advisable to have recourse to a *russuddee jumma*, in order that Government may obtain a fair participation in the benefit of future improvement; and whether you think that the settlement might be extended with advantage *beyond the term of four years* under a *jumma* gradually increasing, and with a provision that at the expiration of the given period, the assessment in the last year of the term shall be fixed in perpetuity: whether it appear to you that a settlement of this nature would afford a reasonable assurance that sufficient time has been allowed for calling forth those resources which the country may be supposed to possess, and for securing to Government a revenue proportionate to those resources.

We are aware that such a settlement is not expressly directed by the Regulations; but if, from the decline of agriculture, the want of population, or other cause, it be impossible at present to obtain from the country that revenue which it is capable of producing under judicious management, it may undoubtedly be found expedient to extend the term of the settlement to a period which will admit of its productive powers being fairly brought into action, and enable Government to obtain a revenue adequate to its just expectations. The land revenue in this country constitutes the chief branch of the public resources; it is familiar to the people; and, however desirous we may be of seeing the assessment fixed, it is incumbent upon us to exert our best endeavours to render this revenue as productive as possible, since it is evident that to supply a deficiency in this branch of revenue it may become necessary to resort to some mode of taxation much more objectionable.

7th —Although the subject may not be considered to have any immediate connection with the objects of the present reference to you, we request you will state whether it appear to you that the system under which the customs and town duties are at present levied, operates in any manner to check the agricultural prosperity of the country, and as a necessary consequence to suppress or diminish the sources of the land revenue, and whether any means occur to you of improving that system, so as to obviate the objections to which it may be considered liable

It is unnecessary to observe to you that whatever may obstruct the commerce of a country must, in a greater or less degree, affect its agriculture, and that an abundant produce—the real source of an abundant revenue—cannot be expected if obstacles are opposed to its circulation, and it be not allowed to pass freely to those quarters where there is a demand for it

7 We are far from wishing to anticipate objections to any part of the prevailing system, but we hold it to be our indispensable duty to satisfy ourselves on every question which may directly or remotely affect those interests of the Government or the country, which have been committed in any respect to our superintendence

8 You are apprized that it is our intention to proceed to the different Districts to superintend the formation of the settlement on the spot, and the object of our reference to you under date the 28th July, was to ascertain in what particular districts it could be first undertaken with the greatest convenience and advantage to the public service. In proceeding to those Provinces from the Presidency we have been detained so much longer than we had reason to expect, that we shall not be able to move from Furruckabad (where objects of a different nature demand our attention) till the 1st November, nor can we yet determine in what order of succession it will be advisable to commence the settlement in the several *zillahs*

9 The intermediate time, however, may be usefully employed in collecting information to enable us to form a more satisfactory judgment on the nature of the settlement which may appear most suitable to the present state of the country, and we rely on your furnishing us at as early a period as may be practicable, with every information in your power calculated in your

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light on the subject. The bias of our minds is, we confess, in favor of a permanent settlement, from having witnessed the admirable effects of such a settlement in Bengal, where we have been chiefly employed ; and if circumstances admit of the assessment being fixed in perpetuity, without material prejudice to the interests of Government, if a revenue can now be obtained proportionate to the resources of the country, or if no expectation can reasonably be entertained that its resources will increase under the operation of temporary settlement, we should without hesitation recommend the immediate adoption of the plan of settlement which the Governor-General in Council has authorized by Regulation X. of 1807, as a means of extending to our newly-acquired territory one of the greatest benefits which we think could be conferred upon the country.

10. If, on the contrary, from the languishing and neglected state of its agriculture, from a want of population or other cause, the natural resources of this extensive territory cannot yet be fully called forth ; if, from a want of information, the assessment cannot be apportioned fairly and equally upon the different estates ; if the inability or unwillingness of the principal landholders to engage for their estates, or the unsettled state of property or other circumstances, preclude an immediate settlement with the occupants of the soil ; if, in short, these or other objections exist to the immediate adoption of the plan of settlement contemplated by the Governor-General in Council, and it be fairly presumable that the existing obstacles are of a temporary nature only, and are likely to be obviated within a reasonable period by the gradual operation of a judicious system of management—under such circumstances we shall deem it our duty to submit to the Governor-General in Council the necessity of postponing for the present the adoption of a measure, which, with the most just and liberal views, has been projected for securing to these Provinces the means of future prosperity.

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I—REPLY TO CIRCULAR No D DATED 7TH SEPTEMBER, 1807,
BY COLLECTOR OF SAHAPUNPORE.

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GENTLEMEN,—I had not the honor to receive your letter of the 7th September last, on the subject of the ensuing settlement, until the 26th of that month, when I resumed charge of my office after a short absence from this district. Since that time I have been attentively engaged in collecting materials to enable me to furnish information on the various points to which your address has reference, but as in the execution of this important duty I have found it necessary to institute several local investigations in remote parts of the district, and as I have had to depend on the *tehseldars* and other *mofussil* officers for numerous detailed accounts, which required the time occupied in completing this inquiry and in arranging the result, has occasioned a delay in the transmission of my reply, which your Board will, I trust, consider to have been unavoidable.

2 On that part of your address which by showing the happy result of limiting the public demand upon the lands as already fully proved in the Lower Provinces, and by an inverse mode of reasoning explaining upon general principles of policy, the prejudicial effects to be expected from the influence of an opposite system, establishes the conclusion that it is expedient to extend to the Ceded and Conquered Provinces the operation of the permanent settlement, I shall not presume to obtrude any observations, but advertising to the immediate duty assigned to me of submitting particular information with regard to the present state of this district, which may constitute grounds for a conclusion as to the expediency of declaring the ensuing settlement permanent, I shall proceed to reply to the various points of reference to which the question gives rise in the order they are stated in your sixth paragraph, fully sensible that the important considerations they involve require the exercise of far superior abilities.

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3. Adverting to your first point of reference relative to the state of cultivation in this district, it may not be deemed unconnected with the subject to observe, that under the late Government the public revenue was not fixed by assessment on the lands, or by specific terms of settlements concluded with the *zemindars*, but according to the system then pursued of farming or of holding lands *imancee*, which does not I conceive differ from farming. In so far as the *zemindars* are concerned, the dues of the *sircar* were realized either by exacting a part of the crops, the proportion of which was determined by the will of the *amil* rather than conformably to any established rule, or by levying the value of such proportion in cash according to its price in the market, the rates of which were regulated by the Government.

This system was certainly not more impolitic in principle, than liable to abuse in the administration: for it is, I believe, admitted that where the Government does not secure to the occupier the price and sale of his property by granting proper tenures, but realizes the revenues by arbitrary and undefined exactions, there is no reward for industry or incitement to improvement. It is not, however, my part to intrude on your Board general observations on a system, the defects of which I am less competent to appreciate according to established principles of policy, than from having witnessed its prejudicial consequences; and it is sufficient to the subject now in question to state that during the latter years of the Maharatta Government agriculture had been gradually on the decline in the district, as appears by the annual decrease of revenue shown in the accounts of that period, and that a long series of oppression had sunk the landholders in indigence and despondency—the most deplorable condition, perhaps, to which a country can be produced.

Since the annexation of this district to the British territories, the agitated state of public affairs and the many severe losses sustained by the landholders during the repeated incursions of the enemy and depredations of the Seiks—the circumstances of which are fully known to your Board—have greatly tendered to counteract the happy effects which the liberal and just system of policy, introduced by the event alluded to, was calculated to produce on the condition of the *zemindars*. The great proportion of this district which still remains

in the hands of renters at the formation of the settlements which have been concluded, is a melancholy proof of their poverty; and I have no hesitation in submitting my opinion at this early part of my address, that the indigence of the *zemindars* in general, and their consequent inability to enter into engagements with Government for the cultivation and future improvement of their lands, constitutes the only material objection to the introduction of a permanent settlement into this district.

Although the cursory review of the state of the district, which I have deemed it necessary to submit to your Board, presents an unpleasant retrospect and may induce an unfavourable conclusion as to the state of cultivation, it is at the same time gratifying to me to be enabled to report that, notwithstanding the disadvantages which attended the annexation of the district to the British territories in December, 1803, the lands have advanced gradually in improvement since that event, and that the favourable change which has taken place in the aspect of the country is obvious to common observation.

This is the natural consequence of the encouragement held out to industry, and it may not be improper to notice a circumstance that tends to show the happy effects of the inducement lately afforded to cultivation, which is this; under the former Government not less than from 12 to 15,000 bullocks were carried out of this district annually, and employed with troops in this part of India and in the Deccan in transporting grain and other supplies, the *beoparies* then finding it more to their advantage to accept of that service at the rate of Rs. 2-13-0 *per mensem* for each bullock, than to engage in agricultural concerns. About two years ago when *bunjara* bullocks were required by His Excellency the Commander-in-Chief for the use of the troops in the field, they could not be procured at a lower rate of hire than Rs. 3-8-0 *per mensem*, and at the present time I have reason to believe that, exclusive of the cattle employed by traders in transporting the produce of this and the adjacent countries, no bullocks are drawn from this district; but on the contrary, cattle are imported for sale here from the west side of the jumma and their price rises daily. It is also observable that towards the banks of the Jumna, particularly where there is most waste land,

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the *bunjara* bullock-owners have settled themselves in villages, and are occupied in husbandry, either in pasturage or in the more profitable labour of cultivation. These cattle, therefore, must be considered as an augmentation of stock, from which considerable benefit must be derived, inasmuch as the increase of cultivation may be supposed to have been in proportion to the increase of the stock employed.

If, at the formation of the different settlements which have been concluded, assessment has been duly proportioned to the produce, the extension of the cultivation within the last four years may, I presume, be estimated according to the annual increase in the *jumma*, which after making due allowances for lands annexed to and separated from the district is as follows:—

Actual increase of the Revenue.

In 1212 <i>Fuslee</i>	...	...	Rs.	46,417	7	8
„ 1213 „	44,506	2	2			
„ 1214 „	48,109	2	2			
„ 1215 „	80,191	6	3			
				1,72,806	10	7
Revenue of 1215 is	Rs. 14,78,262	14	9			
„ 1212 is	Rs. 13,16,236	14	3			

Actual increase is Rs. 162,026-0-3.4.

Include the increase on
resumed lands in 1215

<i>Fuslee</i> ,	...	10,780	10	1	1,72,806	10	7
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The progressive improvement of the lands may, I conceive, be estimated by the extension of cultivation of valuable and expensive articles of produce: of these the principal in this district is sugarcane, the increase of which has been considerable within the the last two years, as will appear from the following statement of the exportation of sugar produce taken from the accounts of the Custom Department:—

	<i>Exported in</i> 1213 <i>Fuslee</i> .	<i>Exported in</i> 1214 <i>Fuslee</i> .	<i>Difference</i> .
	Maunds.	Maunds.	Maunds.
Produce of sugarcane, ...	53,151-15-6	88,882-32-0	35,731-14-10

According to the average produce of sugar-cane lands here one *beegah* is computed to yield about 12 *maunds ghoor*, so that exclu-

sive of the proportion of land of which the produce was consumed

* At a moderate computation one third of the gross produce in the district,* there must have been 7,407 *leegahs* in cultivation in 1214 *Fuslee*, to yield 88,882 *maunds* 32 *seers* for exportation,

and if one *maund* is worth Rs 2-4-0, which is about the average price, the value of the produce thus exported is somewhat less than 2 lakhs of rupees, or about $\frac{1}{4}$ th of the yearly revenue of the district

I feel at a loss for a definite mode by which to convey to your Board information with regard to the actual state of collection, but I humbly conceive that a general idea might be formed from the commutation formed from the extent of cultivation of each sort of produce according to the proportion its value bears to the gross revenue

I have accordingly attempted this estimate for the expired year 1214 *Fuslee*, in three *pergunnahs* selected for the purpose, as being in the middle degree with respect to fertility of soil and improvement, having ascertained the quantity of each article of produce, and fixed its price according to the average rate of the market for that year. I have calculated the proportion the value bears to the amount of assessment. I have then, according to the average produce of the lands, computed the extent of cultivation (for each article respectively) necessary to yield a quantity equal to the proportion its value bears to the assessment

I am fully aware that as the amount and value of the land produce depends in a great measure on the contingencies of season and of a fluctuating market, and as the lands may not have been duly and equally assessed (and, in fact, *mokurruree* lands are not assessed in proportion to their produce), the estimate of the produce of the three *pergunnahs*, compared with their assessment, of which the result has been applied to all lands paying revenue, is formed on grounds vague and uncertain it may, however, lead to a general inference as to the state of cultivation, which is the immediate subject of inquiry, and under this consideration it is submitted to your Board

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*Estimate for the year 1214 Fuslee, of the produce of the lands in
of cultivation and of the produce of the different articles,
tively is supposed to*

Articles.			Produce of one beegah.	Number of beegahs in cultivation.	Total produce at the average rate of one beegah.
			Mds. S. C.	Beegahs Bis.	Mds. S. C.
Nyshukist,	...	...	12 0 0	22,291 14	2,66,500 8 0
Poombah,	...	...	0 20 0	30,093 12	15,046 32 0
Tooriah,	...	...	0 33 0	37,997 6	31,347 28 0
Zurduck,	...	...	8 annas.	33,437 12	A
Mundool,	...	...	2 0 0	23,510 16	47,021 23 0
Mundonee,	...	...	2 0 0	23,510 16	47,021 23 0
Dhans, 1st (sort,)	...	...	3 13 4	37,640 14	1,25,390 28 0
Ditto 2nd ditto,	...	...	2 15 0	1,26,710 12	3,00,935 30 0
Mukye,	...	...	5 0 0	50,156 6	2,50,781 18 0
Joar,	...	...	4 0 0	31,347 14	1,25,390 28 0
Churree, per beegahs,	...	...	Rs. 1 3 3	20,844 4	A
Bajra,	...	...	2 6 12	23,126 18	50,156 10 0
Orud,	...	...	2 20 0	50,156 6	1,25,390 28 0
Moong,	...	...	1 20 0	29,257 18	40,886 32 0
Maat,	...	...	2 30 0	25,078 2	68,964 32 0
Lobiah,	...	...	1 20 0	16,718 16	25,078 8 0
Coorjud,	...	...	0 20 0	29,257 18	14,028 38 0
Cungnee,	...	...	1 15 0	21,278 8	29,257 32 0
Shomawkh,	...	...	1 15 0	24,318 4	33,437 22 0
Codum,	...	...	5 20 0	12,159 2	66,875 0 0
Total,	...	...	...	6,68,892 18	16,68,114 20 0
Tobacco	...	...	Rs. 4 0 0	8,359 8	A
Peeaz,	...	...	1½ 0 0	26,750 0	A
Chinnab,	...	...	1 15 0	42,593 2	58,515 25 0
Gheon,	...	...	4 Mds. 5 Mds.	2,00,625 4	8,27,578 29 0
Jhow,	...	...	5 0 0	1,20,375 2	6,01,875 20 0
Chunna,	...	...	4 0 0	1,75,547 0	7,02,188 0 0
Urhur,	...	...	2½ 0 0	11,703 2	29,257 34 0
Mussoor,	...	...	5 0 0	23,406 6	1,17,031 14 0
Mussung,	...	...	4 0 0	15,673 16	62,695 12 8
Sursoon,	...	...	5 0 0	5,35,000 10	66,875 2 8
Kurr,	...	...	11 0 0	1,00,312 14	25,078 7 0
Total,	...	...	...	12,60,346 4	24,91,095 24 0
GRAND TOTAL,	...	...	...	19,29,239 2	41,59,210 4 0
Deduct one ½ account of the share of Government,

A—These articles are according to usage assessed in cash at an

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It will be observed that the statement of the produce of the lands is formed with reference to the past *Fuslee* year (1214), which was on the whole a favourable season and the crops were generally productive, but it is with regret I have to represent that the reverse is the case at present, in consequence of the failure of the periodical rains this year. The beginning of the season was favourable, and the cultivation for sugarcane and for the early crops in June and July was extensive and promised a plentiful harvest; but as no rain has fallen in this district since the 21st of August last, *khurreef* crops generally proved light, and in many parts which had not the advantage of well water, totally unproductive. The same cause, but as yet in a less degree, is prejudicial to the *rubbee*, for which the sowing has been partial, although the seed time is almost expired, and extensive tracts of land which at this time last year were covered with crops, and portions of ground newly brought into cultivation are everywhere to be seen ploughed up and prepared for the *rubbee*, but which cannot be sown while the drought continues. It is not, I conceive, necessary at this time to enter into a detailed statement of the loss sustained in the *pergunnahs* separately in consequence of the failure of the rains, the extent of which your Board will be more fully enabled to judge of from local observations; and for this reason, although I have from time to time reported on the unfavorable state of the weather and the distress experienced in consequence, I have deferred until your arrival in the district to enter into particulars, or to submit the numerous representations received from the landholders stating their inability to discharge the amount of their engagements, especially in *Pergunnahs* Shamlee, Kandla, Bhagput, and Tandah Gungeroo, where there are balances unliquidated, and several *zemindars* have absconded across the Junna to the Seikh country, as frequently happens when they fall in arrears to Government. I have therefore to state generally on the subject of the loss sustained in consequence of the failure of the rains, that if the drought which has already been destructive to the early crops of the season and now threatens to prove equally detrimental to the ensuing harvests, continues to prevail, the consequence will be calamitous in this district; but, on the contrary, should a favorable change in the weather shortly occur and the rain which usually falls about this time takes place, the lands on which the early crops did not come to maturity,

and which have been again ploughed up, will be resown and the *rub-
bee* harvest may still prove productive.

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To what has been submitted with respect to the state of cultivation, I beg to add a few general observations on the subject of this district, with reference to its state of cultivation, the condition of the *zemindars*, and the capability of the lands for further improvement. If compared with the country of Rohilkhund, particularly adjacent to the stations of Moradabad and Bareilly, it will, I believe, have the advantage; but will, I apprehend, be found inferior in the two first points if compared to Allygurh, Mynpoory, or Furruckabad. This opinion I venture to offer from observations which my official residence in the different districts mentioned, except Allygurh, gave me an opportunity of forming with respect to their state of cultivation and general improvement, but it is necessary to mention that I have alluded to what their situation was at the period of nearly four years ago compared with this district during the year 1214 *Fuslee*.

If a comparison be made of different parts of the district with respect to their relative state of cultivation, the disparity will appear strikingly great. Near the banks of the Ganges the lands are well advanced in improvement and the appearance of the country is flourishing; this is owing to a considerable portion of the land in that quarter being held under *mokurruree* tenures, and evidently shows the happy effects of giving to the occupiers all the power over and interest in the soil which is necessary for its improvements.

To the westward, or towards the centre of the district, the lands are less improved, and near to the banks of the Jumna the waste land bears a great proportion to the productive. There are few villages and the *zemindars* are in general extremely indigent; the backward state of cultivation of lands near the Jumna is not attributable to the soil being less capable of improvement than in other parts of the district but is solely in consequence of that quarter being exposed to the constant depredations of the Seikhs from the west side of the river, who under the former Government not only exacted from every landholder a tribute, denominated *rakee*, the amount of which was proportioned to his means, but on many occasions reduced the *zemindars* to total ruin by burning their villages and driving off their

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cattle. Cultivation, however, has been considerably increased of late in this quarter, and when the benefits of a permanent settlement shall have been extended generally, it may be anticipated with certainty that a short period of time will advance every part of the district to a state equally flourishing with that to which the *mokurruree* lands near the Ganges have already arrived.

In further reply to the subject of your first point of reference relative to the proportion of lands cultivated and uncultivated in this district, I have to state that *Zillah* Saharunpore is computed to contain exclusive of the *Begum* Somroo's *jagheer*, about 5,900 square* miles or 62,89,400 *beegahs*†.

This area I beg to distinguish into three portions, stating the proportion of cultivated and uncultivated land in each division respectively as follows, and the grounds on which the estimate is formed:—

	<i>Beegahs</i> cultivated.	<i>Beegahs</i> uncultivated.	Gross <i>Beegahs</i> .
1st—Lands held subject to an increase of <i>jumma</i> ,	9,23,769 15	8,88,610 11	18,10,400 6
2nd ditto at a fixed <i>jumma</i> ,	7,36,374 6	3,36,889 15	10,73,264 1
3rd ditto rent-free,	6,16,781 2	4,74,439 8	10,91,220 10

The gross amount of *beegahs* stated in the first of the above estimate, is the aggregate of lands included in the engagements entered into with the *zemindars* at the formation of the present settlement, which comprehend all lands of whatever description belonging to each village respectively.

The proportion cultivated is the result of local investigations on the occasion alluded to, for the purpose of ascertaining the produce of each *pergunnah* by which to fix the amount of its assessment, to which has been added the number of *beegahs* brought into cultivation since that period, as ascertained by computation or by actual measurements.

* The number of square statute miles above stated may perhaps be incorrect, being calculated on a map which is by no means correct in many particulars.

† Calculating one square mile to contain 1,066 *beegahs*.

As any inquiry with respect to the produce of *istimrar* and rent-free lands was not connected with the temporary settlement which has been concluded, and as the possessors of these lands are very averse to any interference on the part of Government, I have not considered it advisable to institute any more direct investigations into their extent and state of cultivation, than by requiring the *canoongos* to furnish a report on the actual state of the lands belonging to each village respectively, and from the detailed report submitted by them on the subject the estimate of lands cultivated and uncultivated of the description alluded to has been given.

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The proportion of cultivated land belonging to each village separately has been computed on the spot chiefly by estimate, but in many instances by actual measurement, and the aggregate is not, I trust, materially incorrect. A general measurement might certainly have been effected, but I humbly conceive the main object of your address does not require that this mode of ascertainment, which would have occupied much time and is more immediately connected with the actual formation of the settlement, should be had recourse to on the present occasion.

With respect to uncultivated lands, I beg to state that the value of land in general having been long on the decrease during the late Government, the proportion which has gradually become waste and yields no advantage except as pasturage, cannot be accurately ascertained, and the estimate given of reclaimable lands has been formed principally from the statements of the *canoongos*, and from persons whose families have been long resident in the different villages. They are generally enabled to point out the boundaries and particular marks which denote the proportion of land formerly in cultivation.

4. The extent of the cultivation and produce of the lands being immediately dependent on the population, if the particulars which have been stated in the foregoing part of my address on the former subject admit of a conclusion, an inference may, possibly, be deducible therefrom on the latter subject also, which is the first question contained in your second point of reference, but to be enabled to afford

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your Board grounds, however superficial, for an opinion on the second question which it involves, for I do not possess abilities competent to discuss a subject of so general a nature, *viz.*, “with respect to the proportion which the population of the district may be supposed to bear to its agricultural powers,” it appeared to me requisite that the real state of the population be first ascertained, which could not, I apprehend, be effected with any degree of certainty otherwise than by actual computation, and as this measure would not, I was assured, create alarm in the inhabitants or be attended with any other objection than that of a delay in forwarding this report, I endeavoured to form an estimate of the nature alluded to in the following manner.

To every village, a person was deputed by the *tehseldar* within whose jurisdiction it is situated, who counted the number of houses and ascertained from the owners the number of persons resident in each respectively.

With respect to villages situated within large estates held *mokur-ruree*, the revenue from which is not realized through *tehseldars*, I have depended on reports given in by the *canoongos* and by the possessors of such estates, executed conformably to instructions furnished to them for the purpose.

In large towns the information in question has been obtained from the *chowdrees* and heads of each particular class of merchants and of labourers, who gave in a statement of the number of persons belonging to each class; and with respect to the number of persons distinct from any particular class it has been reckoned by counting the number of houses occupied by them and ascertaining from the owners the number of persons resident in each.

On submitting the result of this inquiry the detailed accounts of which are deposited in the office, I beg respectfully to mention that, although I have not omitted any means in my power to render it correct, it is not however offered with a claim to minute accuracy, but as the best computation of the present population of the district which I have the means of forming under existing circumstances.

Statement of the population of Zillah Saharunpore.

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1st.—Number of persons employed exclusively in cultivation,	127,708
2nd.—Ditto ditto artificers,	77,679
3rd.—Ditto ditto who are not maintained by actual labour, and comprising all armed retainers in the services of the natives,	86,254
4th.—Females, and all persons under 15 years of age, ...	411,931
Gross population, exclusive of <i>Begums' Jagheer</i> , ...	703,575

Statement of the lands in Zillah Saharunpore.

	Cultivated <i>Beeegahs.</i>	Waste, but capable of cultivation.	Gross	Square miles
1st—Lands liable to an increase of assessment, .	923,789 15	838,610 11	1,810,400 6	1,623 ½
2nd—Not liable to an increase of assessment, ...	736,374 6	336,880 15	1,073,264 1	1,006 ½
3rd—Rent-free, ...	616,781 2	474,439 8	1,091,220 10	1,023 ½
4th—Supposed to be unimprovable, covered by water, occupied by buildings, roads, &c, and unascertained of whatever description, ...	..	...	2,714,515 3	2,171 ½
Total, ...	22,76,645 3	16,97,939 14		
Area of the district, exclusive of the <i>Begums' jagheer</i>, ...	...	...	6,280,400 0	5,900

An observation which has been made with respect to Hindoostan in general, appears applicable to the state of this district, that it is still populous after all the injuries of a despotic, and all the agitations of an unsettled, Government.

1st—Compare the total population with the total number of square miles: 119½ persons to 1 square mile, 1,066 *beeegahs*.

2nd—Compare the gross assessment of 1211 *Fuslee*, with the total miles square: Rs. 272-0-6 is assessed on each square mile, 1,066 *beeegahs*.

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3rd—Compare the gross assessment of 1214 *Fuslee*, of lands paying revenue to Government with the number of miles and *beegahs* of the same.

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1 square Mile pays,	...	886	13	5½ and ⅛ of a cowrie,
1 <i>beegah</i> pays,	...	,,	13	3

4th—Compare the quantity of lands cultivated with the quantity waste but reclaimable or capable of cultivation.

				<i>Beegahs. Biswas.</i>
1st—Excluding rent-free lands, the cultivated land				
exceeds the waste by	...	...	...	436,663 15
2nd—Excluding rent-free lands it exceeds the				
waste by	...	...	...	579,005 0

5th—Compare the number of persons employed exclusively in cultivation with the extent of land cultivated.

* 1 Person cultivates 17 *beegahs* 16 *biswas* and 11½ *biswansees*.

The estimated produce of the lands will, I conceive, appear to bear a high proportion to the estimated population ; and even under the influence of the Maharatta Government, the gross produce considerably exceeds the amount consumed by the inhabitants actually belonging to the district, and rendered the means of subsistence easy, which is the first requisite to populousness ; and to have ensured an increase of the population it was only wanting that the produce should be allowed to circulate freely ; but here the mistaken policy of the Government interfered, by levying heavy duties on exportation, and by entirely prohibiting grain being carried out of the district for sale in order to reduce the price, that the troops cantoned at Coel, Secundra, Delhi, and other places adjacent might be supplied at cheap rate.

In this district a large division of the army was generally stationed, grain being more plentiful here than elsewhere, and there were several *pergunnahs* assigned to individuals solely for the sup-

* One man actually cultivates about 15 *beegahs*, or rather 3 men cultivate 45 *beegahs*, and the number of persons who occasionally do cultivate less makes the above computation exceed this rate.

port of cavalry in the service of the *sircar*, to which being added the numerous armed retainers entertained by natives, the aggregate of armed men living in and maintained by the district but not contributing to its resources, bore a considerable proportion to the real population of the district, actually considered as such.

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In consequence, therefore, of the surplus produce of the district having been consumed by persons of the above description, it did not yield any adequate advantage in a general point of view: as it is, I believe, established that general benefit does not depend on the number of those who consume, but on those who make returns: and the abundance of produce did not insure the populousness of the district, because the prohibition laid on exportation obstructed the distribution, which is of equal consequence to the population with the production.

The district possesses many eminent advantages; the soil is fertile, water is procurable in abundance from various streams by which it is intersected, wells are sunk with little labor, timber is brought in any quantity required from the adjacent hills, which likewise produce iron, and the inhabitants are peaceably inclined and industrious. Art, however, has contributed little to improve the internal resources the district possesses: manufacture is very inconsiderable: there are no embankments or reservoirs to retain water for irrigating the lands, and the roads are in most places impassable during the rainy season: for, as under the former Government security was not afforded to property, there was no inducement to engage in commercial concerns or to undertake works of general utility. But were the advantages the district possesses—its extensive internal resources, as well from being situated between two large rivers, which renders conveyance easy and cheap, and from being on the frontier of a country which affords a ready and profitable market for the surplus produce—improved to the utmost extent of which they are capable, it is difficult to form any idea of the state to which the district would be advanced with respect to agriculture.

It appeared to me that some information with respect to the productive powers of the district might be obtained by ascer-

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taining from the *Khalsa* records* the amount of revenue realized from this district at a period of a hundred years ago, when this part of the country was certainly in a very flourishing state; but the documents to which I allude were found on examination to be altogether vague and not to contain information to be depended on in any particular, and I am not aware of any other grounds from which a conjecture can be formed with respect to the agricultural powers of the district, than by applying generally the result of an ascertainment made of the produce of a given quantity of ground actually brought to a state of improvement as perfect as it is supposed to be capable of. The rent-free lands adjoining the town of Meerut are, I conceive, of this description, as they command the advantages of water, manure, cheap labor, and a ready and profitable market, the ground at the same time being extremely fertile. Of these lands a part was lately appropriated to the purpose of a Military Cantonment, and an investigation which took place in consequence to ascertain the produce, that Government might be able to determine on the compensation to be granted to the proprietors, found that the actual value of 853 *beegahs* was Rs. 2,217-6-0, on an average of three years. Suppose the whole lands now cultivated and paying revenue to Government, and also the proportion at present waste but capable of cultivation to be rendered equally productive with the 853 *beegahs* above mentioned, the total produce would in value be Rs. 75,82,033-7-0, and if rent-free lands be included, the total produce of all lands in the district cultivated and capable of being cultivated, viz., *beegahs* 39,74,844, 17 *biswas* would be Rs. 10,340,911-5-10.

The above lands viz., 39,74,844, *beegahs* 17 *biswas* being supposed to be cultivated, the number of persons requisite for their cultivation at the rate of 17 *beegahs*, 16 *biswas*, $11\frac{3}{4}$ *biswansees* would be 2,22,941 cultivators.

Suppose the number of cultivators increased as above to 2,22,941, and the total population to bear the same ratio to the number of cul-

* In the Royal Register Office at Delhi.

tivators which it now does, the population would then be 12,28,237 and nearly one-fifth *

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The information required on your 3rd point of reference viz, with respect to the chief articles of produce in the district is, I hope, contained in the General Estimate of the produce of the lands which accompanies the observation submitted on the state of cultivation, from which it will appear that the chief articles of produce with reference to quantity are wheat, *chunnah*, and rice. It will also appear that most of the articles produced in Bengal esteemed the most valuable are cultivated in this district viz, cotton, sugarcane, indigo, and tobacco. The first of these articles might certainly be rendered very productive through the influence of manufacture, but at present, there being only an inconsiderable quantity of cloth made here, and that of a coarse kind, the greatest part of the cotton produced is exported raw, and consequently affords no further advantage to this district than the profit derived from sale of the gross material.

The cultivation of sugarcane is already considerable, and that it is not increased to a far greater extent is solely owing to the indigence of cultivators, nor does the cane which is now produced yield all the advantage of which it is capable, being for the most part made into *goor*, and not refined and manufactured into sugar, because the demand for that expensive article of luxury is insufficient to defray the charges for the manufacturer. The internal consumption will of course increase with the improvement in the circumstances of the inhabitants, on which, however, the produce only in a small degree depends, as the overplus will always find a ready market in Jajpore and other countries in that quarter, where owing to the arid nature of the soil and the scarcity of water, the cultivation of sugarcane is very partial, and the produce being inadequate to the demand, the deficiency is supplied by importation from this district and from other parts of the Company's Provinces.

Indigo is not cultivated to any great extent here, and does not, I believe, yield an annual produce of above 400 *maunds*, which is purchased by shawl merchants and other traders from the westward

* The population would, I conceive increase in proportion to the increase of produce and the employment given by the extension of agriculture and the consequent revival of manufacture

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This article, however, is cultivated to a very great extent in the lower part of the Doab, and might no doubt be rendered equally productive here.

Tobacco grows luxuriously here, and might be cultivated with every prospect of success; but at present the produce of the article is little more than sufficient for the internal consumption of the district, and the cultivation is confined to rent-free lands situated in the immediate vicinity of large towns.

It is unnecessary to mention that the culture of silk is unknown in this quarter, and that of opium prohibited. How far it may be practicable or expedient to introduce the cultivation of these articles I am altogether incompetent to form an opinion, and have only to notice in respect to the commodities in question, that silk constitutes the chief article of foreign export to the countries to the north-westward, being carried back in return for *shawls*, fruits, &c., imported, and that opium is in general demand here and in the Punjab and Jeypore.

From what has been stated, it will, I conceive, appear that this district is capable of being brought to a state of high improvement, and that with due encouragement to agriculture, which would naturally revive manufacture, the various valuable articles now partially cultivated here, may be rendered extremely productive to the natural resources this district possesses in common with other inland parts of the Provinces. It enjoys the peculiar advantage of being situated on the frontier of a country where its overplus finds a ready and profitable market, and where the two great requisites of fertility of soil and demand for the produce are combined. The district must necessarily flourish under judicious management.

In further reply to the subject now in reference, I beg respectfully to state that my local information does not enable me to point out any internal resources not already brought into action which this district may possess, but which superior abilities might have discovered, and I will not presume to intrude on your notice opinions or observations of a speculative nature which I may not be able to support on grounds worthy of attention.

6. Adverting to your 4th point of reference, I conceive, that in assessing the land the state of assets is the first subject to be considered. The information I possess on this important point has been principally obtained from the various investigations that took place at the formation of the different settlements of the district, which have been concluded under my immediate superintendency, for the purpose of ascertaining the extent of the produce. The measures adopted with this view at the formation of the present settlement were detailed in my address to the Board of Revenue under date the 2nd April, 1805, and on this occasion, I beg briefly to state that I proceeded into every *pergunnah*, where the state of cultivation of each estate respectively was inspected, and the assessment estimated according to a computation of the produce made on the spot; and in every instance where the *zemindar* offered objections to enter into engagements for the payment of what I considered a fair and equitable assessment, the amount produced was ascertained by the actual measurement of the crops on the ground and the extent of the land cultivated, and his right, and that of Government, having been in that manner estimated, the settlement was adjusted accordingly. As this investigation was instituted in all doubtful cases of the nature alluded to, it is to be presumed that the assessment imposed has not often exceeded the terms prescribed by the regulations, but in instances of the assessment being estimated at too low a rate the inaccuracy remained until a new settlement took place. It has therefore been my particular study to endeavour to discover such instances, and where there has been any reason for supposing that the assessment had not been correctly estimated, the detailed accounts of the actual produce were examined if procurable: and if these accounts were not forthcoming, the quantity of land which had been in cultivation for each particular kind of produce was measured, and the probable receipts therefrom having been estimated, if an inaccuracy had occurred it was ascertained accordingly.

These minute inquiries have, I humbly acknowledge, pointed out various inaccuracies which have happened in fixing the assessment, which the three different settlements that have taken place within the space of four years have afforded opportunities of rectifying, but I confidently believe that a disproportionate allotment of the public

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demand to any considerable extent never has occurred, and is, indeed the less likely to have happened in particular instances, as there are very few large estates in this district to which the operation of the settlements to which I have alluded have extended.

My desire to enable your Board to appreciate how far the means adopted to ascertain the actual amount of produce of the lands were adequate to the object, has I fear induced me to state too much at length the investigations which took place for that purpose at the formation of the different settlements, as well as on other occasions; and in specifying the documents I possess with respect to the state of assets, I beg respectfully to say that I can furnish a statement of the amount realized by Government from every village respectively within the district for each year subsequently to its annexation to the Company's Provinces, and a further statement of the same particulars for four years prior to that time.

To possess similar information with respect to the actual gross produce, is certainly a very desirable object, which I have endeavoured to obtain on other occasions as well as the present, but as it has been the universal custom of the *zemindars* in this district to settle their joint claims on each village by dividing the produce on the ground, every person concerned receiving his respective share, no general accounts of receipts and disbursements were retained until Regulation VIII., of 1803, was extended to this district by Regulation, XXIX, of 1805, in consequence of which *putwarees* were appointed; but as the measure has been so recently adopted, and is not acceptable to the *zemindars* for obvious reasons, it has not been in my power to obtain the information to which I allude generally, throughout the district; but I hope to submit to your Board a statement of the gross produce of the greater part of the villages paying revenue to Government, except *mokurruree* tenures, for the last two years.

In so far, therefore, as documents with respect to the state of assets constitute a requisite to the formation of the permanent settlement, no material deficiency will, I trust, be found to exist; but adverting to the general conclusion of that arrangement which requires that not only the present state of the lands be ascertained, but their capacity for further improvement estimated with refer-

once to future incidents, to be appreciated in the degree they are most likely to take place, much must necessarily depend on exercise of judgment, and I acknowledge that I feel diffident of possessing abilities competent to anticipate the resources of the district, so as to enable me to regulate the public demand with strict justice to Government and to the landholders in general, and it is a matter of real satisfaction to me to be assured that when employed in the execution of this important and interesting duty, I shall act under the personal orders and guidance of your Board.

Adverting to your 5th point of reference, I apprehend that only one of the objections to the immediate introduction of the permanent settlement there alluded to exists in a material degree, namely, the want of resources, and this deficiency would, I fear, deprive a considerable proportion of the actual proprietors of the power of entering into engagements for their lands with Government. At the conclusion of the present settlement of 1213 *Tuslee*, the *jumma* of lands let in firm was Rs 4,38,996-13-0, of this sum Rs 1,05,763-7-6 is paid by *Raja Ramdial Singh* and *Rya Nyn Singh*, the two principal landholders in this district. The firm held by the former was granted to him under the Maharatta Government, above 20 years ago, and the latter obtained his firm at the annexation of this district to the Company's territories, from Mr. Leicester, who at that time had charge of a portion of this district. Both these men by orders of Government have been continued in possession of their farms on the terms they were originally granted, and I believe their general good conduct, and particularly the attachment they evinced to Government on different occasions during the late war, was considered to entitle them to this special mark of favour. Exclusive of these two persons, there are no considerable renters in this district, the farms being in general extremely sub-divided, yielding on the average about Rs 800 yearly. On this occasion I beg permission to mention that I have in no instance concluded the settlement of an estate with a farmer, except where the actual proprietor declined to enter into engagement, and gave in a written document to that effect, and I hope I conformed to the spirit and principles of the Regulations of Government in adopting it as a rule of conduct, that although it may be expedient or necessary to have recourse to farming under

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particular circumstances it is to be considered prejudicial as a system. Under this impression I have deemed it incumbent on me, in the instances to which I allude, to encourage the *zemindars* to enter into engagements immediately with Government, by proposing to them the inducement of as moderate terms as I could offer, consistently with my duty; but such was the depressed state of the lower class of *zemindars*, that many from want of stock to perform business of cultivation, and others from want of confidence, resigned the probable advantages to be gained by managing their own lands for the certainty of sharing a stipulated part of the produce.

The proportion of the lands let in farm was, however, considerably diminished at the formation of the present triennial settlement in 1213 *Fuslee*, and it may be expected that the improvement which has taken place since that time in the condition of the *zemindars*, and the great advantages held out to them by the terms of the proposed permanent settlement, will be the means of reducing the farm to a much less extent; but a considerable proportion of the inferior and labouring class of the *zemindars* will, I apprehend, be found destitute of means to enter into engagements with Government when the ensuing settlement shall take place. This, however, does not necessarily constitute an obstruction to the conclusion of the permanent settlement which may be formed, to the exclusion of the *zemindars*, who in that case will receive *malikanah*, and although it appears to me very desirable that the proprietors should be found qualified generally to enter into engagements when the arrangement in question takes place, which I conceive an intervening settlement would greatly tend to effect, still the want of resources, if extending only to prevent a number of individuals from enjoying in their fullest extent the advantages of the permanent settlement, could not be considered sufficient cause for postponing the introduction of that measure in which all must participate; but I apprehend that under existing circumstances the landholders in general have not the means of affording an increase on the revenue of the current *Fuslee* year which Government may expect in consideration of the assessment of the lands being fixed in perpetuity; and this, I beg respectfully to state, is in my opinion the only impediment existing to the immediate introduction of the permanent settlement.

Your 6th point of reference adverts, I presume, to the formation of the four years' settlement prescribed by the Regulations, as a measure which, in the event of it appearing that the decline of agriculture and want of resources constitute obstacles to the immediate introduction of a permanent settlement into this district, it may be necessary to adopt with a view to remove these obstacles.

Should circumstances of the nature alluded to render it necessary to carry the four years settlement into effect, it would not, I conceive, be advisable to have recourse to an increasing *jumma*, which would, I apprehend, frustrate the object of the arrangement.

The public revenue of the district at present bears a great proportion to the produce, as will, I trust, have fully appeared; and as the *zemindars* do not possess funds from which to supply deficiencies arising from a failure of the harvest, such as has happened this season, but depend almost generally for the payment of their *kists* on the produce of each current year, it is my opinion that a temporary settlement, if formed on an increasing *jumma*, would have the effect of throwing the landholders into the power of farmers, from which they are now gradually emancipating, if I may use the expression, and the revenue probably would not be realized.

In any point of view, it may be deemed objectionable to have recourse to a *rusud jumma*; but considering the formation of the four years' settlement as preparatory to the plan of arrangement ultimately to be carried into effect, it appears in a peculiar degree conducive to the interest of Government to afford all possible encouragement to exertion, by allowing to the landholders the full benefit arising from the increase of cultivation within the prescribed period (four years); and the industry of the *zemindars*, which is evinced in the improvement of the district within the last four years, and the interest they have in extending the cultivation of their estates, which is, in fact, the only mode they have of improving their means, affords the most satisfactory security that the liberality of Government would not be misapplied.

But should the reasons I have adduced against the formation of a settlement on a *rusud jumma* be deemed inconclusive, and that measure decided on, it does not appear to me that to extend the

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term of the settlement beyond three years would be attended with any particular advantage; but on the contrary, if Government requires an increase of revenue in proportion to the increase of the produce, whatever increase the lands may be supposed capable of yielding will be more accurately ascertainable by annual assessment, which would be equally to the advantage of Government in so far as I can judge, and certainly more acceptable to the *zemindars*, who were accustomed to periodical assessments under the former Government. At the formation of the current triennial settlement they readily agreed to the *jumma* for the first year which was fixed with reference to the existing assets, but were very averse to enter into engagements to pay an increase on each of the two following years, apprehending that contingencies they could not foresee nor provide against might prevent them from executing their stipulations, and had the first year of the settlement been as unfavourable a season as the last proves to be, and the *zemindars* had been obliged to liquidate the balances that might have ensued in consequence, as well as to pay the increasing *jumma* on the two following years out of the increase of produce in these two years, I am induced to suppose that no improvement of the lands would have taken place, and consequently the *zemindars* could not have fulfilled the terms of their engagements.

To extend the term of the settlement in question beyond three years to four, six, or eight years for instance, appears liable to this further objection, that it would cause difficulty and embarrassment should Government deem it expedient to introduce the permanent settlement at an intermediate period,—for although the *zemindars* will at any time be ready to enter into that arrangement which they now anticipate in anxious suspense, the renters who may hold lands on favourable terms, or who may have other motives for wishing to retain possession, would not resign them until the period of their engagements expired, and I am not aware of any stipulation that could be proposed to obviate this difficulty which would not be in itself objectionable.

It is not probable in my humble opinion that the settlement in question if extended to eight years, or even to a space of time considerably longer, would be sufficient for calling forth the resources of the

district and securing to Government a revenue proportionate thereto, and I beg respectfully to express that I cannot with any degree of confidence specify what period of time may be considered adequate to that object, under the influence of a system which is unmodified on in the 4th paragraph of your address, to which I take the liberty respectfully to allude as a mode of taxation prejudicial in its consequences

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9 To the subject of your 7th point of reference, I beg to be allowed for a short time to defer my reply, and I shall only state at present that the operation of Section 14, Regulation XI of 1801, is productive of serious inconvenience to persons trading in this district, the circumstances of which were represented in my address to the Secretary to the Board of Trade, under date the 28th August, 1806, copy of which is herewith submitted. I have also the honor to transmit copy of my address to the Secretary to the Board of Trade, under the 15th January, 1807, suggesting the expediency of postponing the introduction of town duties in this district for reasons therein stated, which were considered to be sufficient, and consequently the operation of Regulation VI of 1801, by which town duties are established, has not been extended to this *zillah*

10 Having concluded my replies to the several points of inquiry to which your address relates, in which I have endeavoured to lay before your Board particular information respecting the present state of this district, it remains for me to submit my own sentiments on the questions which constitute the chief objections of your reference, viz —

1st—How far the present state of the district encourages an opinion that the ensuing settlement can be declared permanent, consistently with a proper regard to the rights of the landholders and tenantry, and to the interests and just expectations of Government?

And 2nd—With regard to the nature of the settlement which appears to be best suited to the country under existing circumstances?

I am fully aware of the importance of these questions on the subject of which I am, in compliance with your orders, to submit my own sentiments, which I offer with the less hesitation, but at the same time with extreme diffidence, as the grounds from which my *opinion*

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is deduced, are submitted to an authority fully qualified to decide how far it is warranted. I have therefore respectfully to represent that the exhausted state of the district with respect to resources in general, which will preclude the *jumma* being fixed at a rate proportioned to what the lands are capable to yield, and which will exclude a considerable part of the proprietors from the occupancy of their estates, appear to me to authorize an opinion that it is advisable to postpone the immediate introduction of the permanent settlement until these obstacles shall have been removed; which would, I conceive, be effected in a great measure by a temporary settlement formed for a term of three years, the *jumma* being fixed at the amount now payable on account of the current *Fuslee* year 1215, but with authority at the same time granted to the Collector to revise the rate at which the different estates were assessed at the conclusion of the present triennial settlement, and to proportion the assets thereon to the relative increase or decrease of assets which may have taken place within that period, which, in my humble opinion, is the nature of the settlement expedient to adopt, as being best suited to the present state of the district, and as a measure preparative to the plan of arrangement ultimately to be introduced.

But should the immediate introduction of the permanent settlement be decided on, although the want of resources might preclude an immediate advantage being derived from an increase of revenue of the lands, Government will still possess the means of participating in the benefit of future improvement by taxing the produce; and would, no doubt, be enabled to make considerable reductions in the charges now incurred on account of establishments: and as the *zemindars* who might be excluded from the settlement would, I presume, receive the usual allowance of *malikana*, the local objections mentioned to the immediate introduction of the permanent settlement may perhaps be considered by your Board to be obviated, or to be superseded by the general expediency of extending to this district the operation of a system in all respects so fully calculated to ensure the future prosperity of the country and the happiness of the inhabitants, and which, if I may take the liberty to express my own feelings on the occasion, must call for the utmost zeal and exertion on the part of every individual employed in the execution of that important and interesting duty.

II.—*From the ACTING COLLECTOR of Furruckabad, to the BOARD OF COMMISSIONERS, dated the 28th of December, 1807.*

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GENTLEMEN,—ON a perusal of the correspondence of this Collectorship, I find a letter from your Board, bearing date the 7th of September last, requiring the Collector's opinion as to the expediency and policy of fixing a permanent settlement in these Provinces, unanswered. As I conceive it to be of immediate importance that the information therein required should be furnished with the least possible delay, I beg leave to acquaint you that I conceive the measure in the present instance to be premature.

I have ventured to confess to you my opinion against a measure which must require much greater local knowledge and experience than I have, to discuss satisfactorily; and the only arguments I can adduce in support of it are, that the country is not in a sufficient advanced state of cultivation, and the proprietary right in the estates is not entirely established.

In reply to paragraph first, I must beg leave to refer you to the statements of the several *tehseldars*, which, however incorrect, will point out that the waste land in this district capable of cultivation is very extensive.

Paragraph second I cannot pretend to answer with any degree of correctness; but I should suppose that nearly one-third of the inhabitants of this *zillah* follow the profession of arms, who will, no doubt, in the course of a year or two relinquish that employment in favor of agriculture. Daily instances of this kind are occurring, particularly in Mow Shumshabad.

With regard to the paragraph third, the chief articles of produce and the time of sowing are correctly stated by the *tehseldars*, whose report I have had the honor to forward to you; and as to the improvement likely to accrue by introducing the cultivation of more valuable articles, I am afraid the poorness of the soil in the generality of the *pergunnahs* is a bar to any innovation of that kind. *Pergunnahs* Needpore and Khakutmow, however, from their vicinity to the Ganges, are capable of producing anything. The soil there, I am given to understand, is extremely rich: indeed the quantity of sugarcane produced there is a sufficient proof of its fertility

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With respect to paragraph fourth, I am not aware of any better documents existing in the office than the present statements required from the *tehseeldars*. The *canoongos*, who are expressly entertained for the purpose of intelligence on the capacity of estates, &c, might be (if inclined to be communicative) of very great use : with the above assistance and ocular demonstration, the settlement ought to be rendered just and equal.

Paragraph fifth—I have replied to this above. Paragraph sixth—in order that Government should obtain some benefit in the future improvement, I am clearly of opinion that a *russudee jumma* would be the most desirable with certain restrictions. For instance, with those estates that were in a sufficient state of cultivation to warrant the measure, a permanent settlement should be concluded : this plan would excite the industry of the countrymen to gain so desirable a point without placing any bar to improvement.

Paragraph seventh.—The second clause of this paragraph furnishes me with a sufficient argument to prove that the system under which the customs and town duties is at present levied is a check to agricultural prosperity of the country.

III—*From the ACTING COLLECTOR of Etawah, to the BOARD OF COMMISSIONERS, North-Western Provinces, dated the 28th, October, 1807*

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GENTLEMEN—I have the honor to acknowledge, your letter of the 7th ultimo, requiring information from me respecting the present state of this District, and that I should communicate my sentiments as to the nature of the future settlement best suited to its welfare and to the consequent interests of Government

2 It appears to be so general and favorite a belief, that the present prosperity and flourishing condition of the Provinces of Behar and Bengal are solely to be ascribed to the permanent settlement, that it would be presumptuous in the extreme, if I were to argue that the decennial settlement, without reference to its permanence or even the promise of it, wrought the first and chief good

3 It will be sufficient for me if I can satisfactorily deduce that a decennial settlement, unlogged by further conditions or promises, will contribute in the highest degree to the welfare of these Provinces without cramping the future resources of Government

4 To this end I venture to propound whether it be advisable that the State should at once pledge itself to the utter and perpetual restriction of its demands from the most considerable source of revenue it possesses (a source which from the nature of the country and its inhabitants and from experience of time immemorial, must ever be more productive than any other) whether it should thus confine itself at a time when the country is but gradually and slowly recovering from its lowest ebb of adversity, under a system of Government but lately introduced, little understood, and the beneficial operation of which cannot yet have been thoroughly extended or whether by affording an adequate period for all these progressive advantages, thereby giving confidence to the subject to secure enjoyment of possession and of profit resulting therefrom, and perfectly sufficient to promote industry and encourage exertion—whether after such an interval, the settlement in perpetuity of the resources of Government would not be more expedient than at an earlier era?

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that the quantity of capable land is comparatively small, but I confess I am inclined to doubt the accuracy of their information, obtained in so short an interval. I have reason to suppose that the antiquated documents of the *chowdries*' and *canoongos*' office (principally the *mowazeneh kagheezat*), or the verbal reports of the *putwarees*, could have been the only source of their hasty inquiry. It is well known that no admeasurement of land has taken place in most of the *pergunnahs* for years (probably since the reign of Akbar); the *kham beegah* is almost a mere name; most of the *zemin-dars* can hardly compute the quantity of land employed in a *pucka beegah*, or know any other measurement than by paces. In some *pergunnahs* it is said that three *kham beegahs* more or less, are equal to a *pucka beegah*.

17. I am also inclined to think that a great quantity of the land now alleged to be incapable of cultivation would—as population increased the means of clearing jungle, draining marsh lands, manuring sterile lands, forming aqueducts, and other arts of husbandry hitherto not resorted to from the poverty and paucity of inhabitants—be brought to yield a profit to the landholders and revenue to Government. On the same grounds, I consider that the value of the lands now arable would be considerably enhanced; there would be more hands to labour and better means to improve the soil; more of what is termed the *jins kamil* would be cultivated; the ground which is now barely turned up by the plough, would, if more wrought, yield more abundantly. In some parts of Behar I have known the rate of land per *beegah* exceed ten rupees, the utmost I believe in this district is four or five, and that very rarely.

18. With respect to the second query proposed by the Board, as to the extent of the population and its proportion to the agricultural powers of the country, I have already intimated my general sentiments.

19. I have set on foot inquiries which might have enabled me to give more particular information both as to the present state of population, and whether during the accession of British Government it had increased; also, whether the modes and conveniences of life amongst the lower classes of people has sustained any material and beneficial alteration; but I am so likely to be summoned

away from this station speedily, that I am not able to pursue such inquiries or to wait the result of what I had already commenced.

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20. I have frequently traversed this district in almost all its parts, and from the observations I have made during such excursions, I consider that the population is very small in comparison with the quantity and extent of land; it will have been observed from what I have before remarked on the subject of cultivated and capable land, that I deem the population to be very inferior to the agricultural powers of the district. I do not depend much on the several reports of the *tehseldars* and *talookdars* as to the consumption or exportation of grain, so as that any positive inference or result to this point should be deduced from them.

21. In reply to the third query of the Board (contained in the 6th paragraph), I beg leave to mention that the chief articles of produce, "*jins kamil*," at the two harvests of this part of the country are in the *khurreef*, that is from *Bhadun* to *Magh*, indigo, cotton, sugarcane, rice, tobacco, *bajrah*, *joar*, *oord*, *jenarah*, *maash*, *moong*, *moth*, &c. In the *rubbee* i.e., from *Chytle* to *Bysakh*, wheat, barley, gram, mustard, *urhur*, linseed, &c. I am not aware that the cultivation of more valuable articles could be introduced, unless, indeed, the poppy which is now prohibited: but the cultivation of such of these as are most valuable might be extended.

22. In reply to the fourth inquiry of the Board, I beg leave to observe that the documents which furnished summary information for the first settlement were—1st, *wasilbakee* accounts delivered in by *Almas Ali Khan* to the Hon'ble Lieutenant-Governor and Board of Commissioners at the time of the Cession of the Provinces; 2nd, the amount of *malgoozaree* receipts of four preceding years, taken from *chowdries*' and *canoongos*' office and given in by larger *talookdars*. 3rd, A statement of *kham* proceeds furnished by the several *ameens* deputed by the Collectors in 1209, which statement was taken from the village *puticarees* and *asamees*.

23. The assessment of the 1st triennial settlement was fixed at a considerable increase of the former *jumma*: in some cases through higher offers made, and in others, when from inquiry or report certain estates were considered adequate to an increase.

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24. The Board are aware that the second settlement was, in conformity with the Regulations, made in all practicable cases with the former tenants, whether *zemindars*, or *moostajirs*, who have preserved faith in their engagements of the first settlement and at the same *jumma*.

25. Frequent instances, however, occurred where the former tenants would not consent to renew their engagements on account of an alleged excessive *jumma*. In such cases, I caused the lands unengaged for to be advertized, inviting offers, the acceptance of which naturally rested on the best conditions.

26. In consideration of the times and seasons of the first settlement which required such very heavy and general remission, it would have been most improvident to have assessed these estates in proportion to the *kham* produce of those singularly unfortunate years; I therefore imagined, that the fairest medium would be found by the offers of the individuals who could better judge from local knowledge of the capability of the lands, and from whom, by creating competition, the best terms would be secured.

27. I think generally the *jumma* of such estates was by these means sufficiently fairly rated; in some few instances from malicious or excessive rivalry, the terms were more than the estates could bear, but I do not think that there were many.

28. I am not in possession, nor have I hitherto called for any regular new documents for the future settlement, nor am I of opinion that any minute or particular written accounts which should be depended on as authentic could be sought out.

29. From long experience in this district and personal acquaintance with numbers of the *malgoozars* and other inhabitants of it, I think I have obtained tolerably accurate general information as to the operations of the present settlement and what changes might be advisable in the future. But as I have no *actual official and recorded vouchers*, I hazard my own opinion or the result of my experience, with diffidence.

30. I think that the present *jumma* of this district for this last year of the settlement is nearly, if not quite, as high as it can

yet bear with regard to the general welfare of the landholders and *ryots*, and that such as it is it requires to be altered and equalized

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31 The separate village settlement "*mou-arcaree bundolust*" is to the utmost extent of its capability, and in some instances higher than it should be. The *jumma* of some of the large *talookas* which was fixed *ehye*, or in gross, is comparatively too light, the increase of their assessment would furnish an equivalent for the expedient reduction or equalization of the *jumma* of the smaller *mou-arcaree* estates

32 I compute that the average sum of excessive assessment in this district may be about Rs 30,000 or Rs 35,000, and that a reduction to that amount in single estates would render the assessment equitable and easy throughout the several *mehals*, that is, would render the *malgoozars* generally satisfied

33 I have reason to believe that with the exception of the large *talookas*, whose too easy *jumma* I have before noticed, the individual profit which the smaller *malgoozars* derive from their lands, after payment of the Government dues, falls short of 10 per cent on their *jumma* even in favourable years, of which they have not enjoyed many since the Cession of the territories. This income has not been more than sufficient for their expenditure, thus their capital cannot be supposed to have increased yet.

34 But one of the great advantages I am inclined to expect from a decennial settlement is, that by small degrees they will in the course of that period have acquired a little capital with which they may provide against casual calamities and failures, and by extending or improving their cultivation still add to their stock and strike out new resources to the general benefit of the country

35 The *puttaree's duster*, and *kham* accounts kept by the *zemin-dars* are in most cases so inaccurate, and in some, through wilful concealment, so false, that I am convinced little information is to be obtained from them, (except in instances of real loss from excessive *jumma*, where the parties have an interest and an end to gain in preserving accuracy and correctness) and little dependence should be placed on the deposition or affirmation of persons whose continuance in service and support of themselves and families depend upon

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their unconditioned obedience to the will and orders of their employers.

36. This is particularly the case in large *talookas* whereof information is most required. I have been confidently told of one *talookdar* who summons his *putwarces* and *mootsuddes* every year to give up their original accounts, which he either deposits in some secret place, or possibly destroys altogether.

37. It may be said that a Regulation of Government requires and commands the fidelity of *putwarces* and the veracity of accounts, but whoever knows the practice and shifts of the natives, and the difficulty of tracing or convicting perjury, particularly under the Mahomedan Law, will not greatly wonder that such a Regulation has not effected much to reform the disposition or alarm the consciences of men, as long as they find it easy to evade the penalty or punishment threatened. I firmly believe the account I heard of the *talookdar* above mentioned, but I could not in any wise prove it.

38. The *putwarce's* Regulation does not at all secure any rights or privileges to this description of persons which should attach them to the State or detach them from the *zemindars*; and generally speaking their wages are so scanty that they are of the most illiterate class, barely capable of keeping any regular accounts, or balancing profit and loss during the year.

39. In reply to the 5th query, I beg leave to affirm my thorough conviction and knowledge that the present situation and circumstances of the landholders do constitute strong and palpable objections to the immediate introduction of a permanent settlement.

40. Very many of the *zemindars* would be willing to engage for and to acquire possession of their estates, but are actually unable from poverty and deficiency of means and influence to keep the *asamees* or *ryots* to the spot or to the cultivation of their lands (which latter argument is a constant source of complaint and a convincing proof of the deficiency of population). In some instances the *zemindars* have been so long ejected that the rightful owner is not known, and the estate has passed from one *moostajir* to another, without the proprietary right, and consequent interest in improvement, being granted or conceded to any one.

41. In still more instances the proprietary right is contested, sometimes sued for, though not decided, in the *Adawlut*, or otherwise their claims are loudly urged, but through ignorance, or inexperience, or incapacity of expense, or disgust with the tardy process and ill-comprehended forms of a Court of Judicature, they have not yet had resolution or encouragement to commence a legal action in the *Deewanee Adawlut*.

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42 When I made the second settlement and visited each *pergunnah* for the purpose, I had numberless applications to restore *zemindars* to their rights, some of whom would have been able and willing to engage for their villages, but as the Regulation for the guidance of the Collectors in the formation of that settlement sanctioned no discretion or allowed no discrimination beyond the *fulfilment of engagements* "on the part of the *zemindars* or other *landholders or farmers of lands*" with whom the 2nd settlement was in cases to be concluded, I could not eject even *moostajurs* who refused to yield to the juster title of the *zemindars*. I could only refer such claimants to the *Adawlut*, but made it a rule to require a *moochulka* from the persisting *moostajur*, that if the *zemindars* should obtain a decree from the *Adawlut*, he should without opposition or plea of other right, from the present acceptance of his *durkhast*, immediately acknowledge the *zemindar* and account to him for the management of such estate.

43 In some few cases I was enabled to do justice to *zemindars* who had been formerly excluded, when either the *moostajur* would not renew his *durkhast*, or, acknowledging the *zemindar* of his own accord, consented that the engagement for the settlement should be confirmed with the rightful owner.

44 I believe I do not exaggerate when I assert that considerably more than an hundred instances of contested claims occurred. Suits were filed in the *Adawlut* in consequence, and many more have not been filed for the reasons I have above assigned, some of which are not only substantial in themselves, but require additional and almost insurmountable weight, when considered with reference to the prejudices of a new people.

45 I do not know the number of suits for land property actually filed, but perhaps not more than thirty have been finally

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IV.—*From the COLLECTOR of Goruckpore, dated the 20th October, 1807.*

GENTLEMEN,—In conformity to the instructions communicated to me in your Secretary's letter of the 5th September last, as well as in your orders of the 7th of the same month, the *tehseldars* have been called upon to furnish the information required by your Board ; in the meantime I deem it my duty to state to you my opinion in regard to the nature of the settlement which appears to me best calculated for the district under my charge.

2. There is so very great a want of population throughout the greatest part of this district, and so small a portion of the lands in a state of cultivation, that no advantage can result to Government by a permanent settlement at the present period, excepting with such proprietors as shall have at present not less than three-fourths of the lands capable of cultivation ; this would no doubt satisfy all the landholders that it is the wish of Government to enter into permanent engagements with them so soon as a certain portion of their estates are cultivated, and would consequently encourage them to advance the cultivation during the ensuing lease.

3. The objections to a short settlement, especially in a district so situated as Goruckpore, are so numerous, that it cannot but urge the propriety of extending the ensuing lease to a period not less than ten years, which appears to me advantageous in every point of view. For, by securing to the *zemindars* an ample profit proportionate to their exertions and industry for so long a period as ten years, the strongest inducements are held out to them to advance the cultivation of their respective estates, and, consequently, Government will derive a proportionate benefit from the improved state of the agriculture.

4. Therefore, with *zemindars* who have less than three-fourths of their capable lands in cultivation, I would make a settlement for ten years, during which period they should pay a gradual increase on a certain portion of their lands at present waste, but capable of cultivation, and with those, who had at the close of the ten years not less than three-fourths of their lands cultivated, a permanent settlement should be concluded.

5 The proposed increase of cultivation must be effected chiefly by the exertions of the cultivators who are at present employed in the cultivated lands in each estate, therefore the quantity of waste lands to be brought into cultivation in each estate during the term of the lease, should be fixed on in proportion to the quantity of land already cultivated in each estate, and I think that in consideration of the length of the lease the quantity of waste lands on which the proposed increase of *jumma* is to be levied, ought to amount to half the quantity of lands at present in a state of cultivation in each estate for example, an estate contains 1,000 *beegahs* of arable land, 200 *beegahs* of which are cultivated—the proprietor will have to pay a *russullee* assessment on a 100 *beegahs* of waste land. This appears to me the most equitable mode of laying the proposed increase, which I would recommend to be fixed at the rates specified in the accompanying Statements 1 and 2 *

6 By these statements you will be pleased to observe, that no increase on the *jumma* is to be demanded until the year 1218 of the third year of the ensuing settlement. This indulgence to the *zemindars* I would grant on account of the severe drought of this season, by which they have lost nearly the whole of the first or *khurreef* crop. It will likewise induce the *zemindars* the more readily to enter into engagements for the payment of the full *jumma* of 1215 throughout each year of the approaching settlement, and will further give them time to collect, if possible, from other Provinces *ryots* for the purpose of cultivating their waste lands. It may be here proper to remark, that the *ryots* who have settled in this district since the Cession of it to the Honorable Company, have come principally from the dominions of the *Nawab Wuzer* and from the territories possessed by the *Rajah of Nepaul*, and that owing to the light assessment that has been fixed in perpetuity in the Provinces of Benares and in Sircar Sarun, very few cultivators have been prevailed upon to quit those districts in order to cultivate the waste lands of Goruckpore.

7 You will also perceive by the statements in question, that the amount to be paid in the last year of the lease for each *beegah* of land to be brought into cultivation is not the full rate of assessment, either in Goruckpore or Azimgurh, because I am certain that were

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the full *jumma* on each *beegah* required from the *zemindars*, it would greatly tend to discourage them from entering into engagements with Government. In fixing the rates of increase on each *beegah* I have had in view the present and future interests of Government, and were a higher rate demanded, it is to be apprehended that many of the landholders would refuse to enter into engagements. The soil of Azimgurh being superior in quality to that of Goruckpore, a higher rate has therefore been proposed to be fixed on the lands in that district.

8. I shall now proceed to state my sentiments respecting the accounts from which the ensuing settlement should be formed, so as to afford a presumption that none of the landholders will be subjected to an over-assessment of their estates.

9. According to the form of account which has been by your orders sent to the *tehseldars*, only the total estimated quantity of land in each *pergunnah* is to be exhibited in that account when finished by the *tehseldars*; whereas it would appear from your instructions of the 7th ultimo, that you expect detailed information on this point, that is, the quantity of land of every description in each estate. But I am of opinion that as there already is an account of this nature in this office, it is altogether unnecessary to require a similar one, or any detailed information from the *tehseldars* at this time. The account in question was made out in 1212 by the *tehseldars*, *canoongos*, and *putwarrers*; and from the enclosed form of it, No. 3, you will perceive that it must comprise a variety of useful and sufficient materials for forming the approaching settlement.

10. A number of estates may have been rather lightly assessed in 1213, from this account not showing the full quantity of land in cultivation in each estate in 1212, and on the other hand too high a *jumma* was demanded from several *zemindars* at that period, as is evident from the *mehals* on which a *jumma* equal to Rs. 1,22,826-11-15 had been fixed for 1213 remaining that year under *khas* management. Nearly the whole of these *mehals* have subsequently been let in farm or engaged for by the proprietors, and they now yield a *jumma* equal to Rs. 94,736-7-5. A very small portion of the *mehals* alluded to continued *khas* in 1214, the total *jumma* of them not ex-

ceeding Rs. 7,461-9-0, but the *tehseldars* have not been able to realize from these lands more than Rs. 3,981-5-0.

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11. Besides the estates which remained under *khass* management in 1213, there is reason to fear that there are some landholders who, although they may have made good the demands of Government during the two last years, have suffered from an over-assessment to which they unwillingly assented, rather than be deprived of their respective *zemindarces*. During the second triennial settlement, notwithstanding this last-mentioned circumstance, I would prefer concluding the settlement on the account of 1212, rather than from any detailed particulars concerning the state of the cultivation at this period, because the very same *tehseldars*, *canoongos*, and *putwarces*, with very few exceptions, who made out the accounts of 1212, would now have to furnish the detailed particulars of land in each estate. They will no doubt admit, that the particulars regarding the lands of many estates were not correctly specified in the accounts of 1212. But the question is, whether they would not now report a vast number of *mehals* to be over-assessed, which are fully capable of paying their present quota of *jumma*, and state those very *mehals*, which were over-assessed in 1212, to be now fully capable of discharging the demands of Government in consequence of their increased cultivation during the two last years? The fact is, that the *tehseldars* and *canoongos* are aware that their services are likely to be soon dispensed with; it is therefore to be expected that (with very few exceptions) they would endeavour, if any opportunity were given to them, to benefit themselves during the formation of the ensuing settlement.

12. In addition to this objection to calling for detailed particulars at this time, there are others equally weighty. It is well known, that under the hopes of having the permanent assessment fixed at a reduced *jumma* thousands of the *zemindars* are at present keeping back, and reducing the cultivation of their estates; moreover, the late drought has prevented many from keeping up the former agriculture of their lands.

13. Should the ensuing settlement be made for the period and upon the principles I have proposed, the difficulty at present experienced by those landholders whose estates may have been in some

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degree over-assessed, will be removed: for in every estate of this description, where there is a quantity of waste lands, the great benefit that will arise to the proprietors by the cultivation of them at the proposed moderate rate of increase of the *jumma*, and for so long a period as ten years, will compensate for the over-assessment. In an estate of this description, where not less than three-fourths of the lands are cultivated, a permanent settlement will be concluded, and the resources that may hereafter be produced on the remaining waste lands will go to the proprietor. In some few cases, the whole, or nearly the whole, of the lands in an estate may have been cultivated and over-assessed at the last settlement. With respect to *mehts* in this predicament, they will probably for the first year of the ensuing settlement be under *khass* management, but I have reason to believe that there are very few of this description. Estates which may have been rather lightly assessed, as well as such as may have increased in cultivation since 1212, the proprietors of them, will have of course derived, and will derive, a very considerable benefit during the ensuing settlement: they will therefore readily agree to pay throughout every year of the Settlement the *jumma* of 1215, as well as the proposed increase on a certain portion of their waste lands.

14. Under all these circumstances, I trust that you will coincide in opinion with me that the approaching settlement ought to be made on the account of 1212.

15. In the foregoing paragraphs I have given it as my opinion—first, that all landholders, having not less than three-fourths of their capable lands in cultivation, ought to have a permanent settlement concluded with them; second, that all landholders having less than three-fourths of their capable lands in cultivation, should be called upon to enter into engagements for a period of ten years, and to pay during the first and second year of the lease the *jumma* of their estates for 1215, and afterwards a gradual increase at a fixed rate on a certain portion of their waste lands; third, that every landholder, having at the expiration of the ten years not less than three-fourths of his capable lands in a cultivated state, shall then have a permanent settlement concluded with him; fourth, that the approaching set-

tlement should be made from the accounts of 1212 in preference to any detailed accounts of the lands at the present

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16 I believe I have now brought before you the most essential and leading points that should be immediately taken into consideration and decided upon. In investigating and fixing upon these general principles as the foundation of a judicious system of management for the district under my charge, I have ever kept in view the three grand objects worthy of attainment—the prosperity of the country, the benefit of the landholders in general, and the present and future interests of Government.

17 I am confident that the system which I now recommend to be adopted will prove upon the strictest scrutiny to be not only less objectionable, but likewise better calculated to obtain the ends in view than any other that could, under existing circumstances, be carried into effect, and when I advert to the just and liberal principles which you have established for the guidance of your conduct in the formation of the ensuing settlement, I cannot but entertain the strongest hopes, that you will be pleased to point out to Government the expediency of forming the approaching settlement in this district upon the grounds suggested in this address.

18 In the event of Government approving of the proposed system, the settlement can be commenced upon immediately. In which case, I would, without loss of time, issue advertisements throughout the district, notifying the terms on which the settlement will be concluded, and that those *zemundars* who were willing to enter into engagements with Government on the specified conditions, should send to the *tehseldars* at as early a period as possible their *durkhasts* signed and witnessed, and that in the event of any *zemindar* declining to enter into engagements with Government on the specified conditions, his estate will be let in firm during the decennial settlement. For the convenience of the *zemundars*, and in order to check any fraud on the part of the *mofussil* officers, I would likewise apprise the *zemundars*, *tehseldars*, and *canoongos*, of my intention to repair at a fixed period to particular parts of the district, where the landholders should also attend for the purpose of declaring that they voluntarily signed their respective *durkhasts*. I would not

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proceed to the different principal *pergunnahs* before the 1st of February, as the landholders would be subjected to the greatest injury were they obliged to be absent, even for two or three days, from their estates during the months of November, December, and January ; neither would I defer going to these different stations beyond the 1st of February, for the formation of the settlement cannot be effected in less than five or six months, and a great object would be gained if it were finished before the commencement of the next rains, at which period the landholders begin to sow the *khurreef* crops, from which they will pay the first *kists* of 1216.

19. It would no doubt be very satisfactory to me could your Board conveniently repair to this district during the formation of the settlement ; but as there will probably be an absolute necessity for your presence in the Conquered Provinces, as the settlement of this district can be without much difficulty effected in the mode already stated by me, and likewise as I can also afford you full information on every point that concerns the settlement, you may not perhaps undertake the present superintendence of the settlement of this part of the Ceded Provinces. I could, however, wish that before you return to the Presidency, or at as early a period as the interests of the public service may admit, you would visit this district, in order to be fully satisfied that the settlement has been concluded on principles calculated to promote the welfare of the country.

20. Hitherto I have made mention of the lands that appertain to estates the proprietors of which have since the Cession of this district to the Honorable Company been under engagements with Government. I am now going to take notice of two other descriptions of lands which constitute a very considerable portion of Goruckpore, as you will perceive from the enclosed comparative Statement No. 4,* which specifies the supposed total quantity of land of every description in the district. The first are *mehals* composed entirely of waste lands, and the second are *maafee* or *lakhiraj mehals*.

21. In respect to these waste lands, in conformity to the orders of Government, dated 15th September, 1803, *pottahs* have been granted for the term of five years, to any person who chooses to enter

* Not recorded.

into engagements to pay at a very low rate a *russudee jumma* for a certain number of *beegahs*. The rates fixed upon these lands were so very low, that the persons who rented them were enabled to allow to the *ryots* so immense a profit for their labour that the *ryots* who had been hitherto employed on the *malgoo-aree* lands were daily quitting them, and settling upon these waste villages. Many complaints were made to me on the subject, and it was represented to me that if so great a temptation were continued to be held out to the *ryots*, they would continue to desert from the *malgoosaree* estates, and that consequently a great part of the lands at present cultivated would become waste, and the *zemindars* be unable to make good their present engagements with Government. Upon a full inquiry, I found that this would certainly take place, and as by such an event Government must ere long be considerable losers, I have judged it advisable not to grant for the present any more *pottahs* of this nature, which I trust will meet with your approbation especially when it is recollected that if any more of these *pottahs* were to be granted at this period, it would prevent many landholders from entering into engagements for the ensuing settlement.

22 It now remains for me to state some particulars relative to the *maafce* or *lakhuray mehals*, which I am sorry to say are very numerous in this district. In order to bring into cultivation the waste portion of them, the *maafcedars* are constantly enticing, and with success, the *ryots* of the *malgoo-aree* to settle upon these rent-free villages. To obviate this evil I confess that I am at a loss to know what I ought to propose. For any restrictions put upon the *ryots* with a view to check this evil would perhaps be incompatible with those general principles of liberty which Government have bestowed on the cultivators of the soil in these Provinces. It may, however, be remarked, that as the *malgoo-aree* are obliged to fulfil their engagements with Government, it is subjecting them to the greatest injustice to permit those landholders who hold their lands exempt from the payment of revenue, to deprive the *malgoo-aree* of the very means by which alone they can be enabled to make good the demands of Government. Surely, it cannot be meant, that in addition to the benefit already conferred on these *maafce-dars* they are to have the power to injure and ruin the *malgoo-aree*, who constitute the most res-

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pectable part of the people in this country, and from whose estates and exertions the State derives its revenues. So long as the *ryots* are privileged to remove from one estate to another in the *malgoozaree* lands, and so long as the *malgoozars* have waste lands moderately assessed, and which they bring into cultivation, the *ryots* of the *malgoozars* will be sure of an ample reward for their labours, as it will be the interest of the *malgoozars* to act in a liberal manner towards their *ryots*. Indeed, I may go so far as to say that the *ryots* will, in a great measure, have the power of making their own terms upon all occasions where either their pecuniary interests or convenience, in other respects, are in question. Now, this being the case, and as the *maâfeedars* already enjoyed a handsome profit from the labours of the *ryots* who are now cultivating the rent-free lands, and as these *maâfeedars* have no right to benefit themselves further at the expense either of the *malgoozars* or Government, there can be no substantial objection, I should think, to Government passing the following resolution: That the *ryots* who are at present employed in the lands held rent-free in the district of Goruckpore shall, if they wish it, continue to cultivate these *maâfee* lands, but that henceforth, no *ryots* shall be permitted to quit the *malgoozaree* lands for the purpose of settling upon the rent-free *mehals*, and that any *maâfeedar* wishing to increase the cultivation of his lands must in future procure *ryots* from other Provinces. Unless a Resolution tantamount to this be immediately passed by Government, any plan of management, let it be ever so judicious, will be retarded and nearly frustrated. It must be obvious to you that some measures ought to be adopted in order to obviate the evil in question, and no rule appears to me less objectionable than the one I have recommended, which, if enforced throughout the period of the ensuing settlement, will materially contribute to promote the prosperity of the country.

23. I shall now bring to a close this address, having I trust given to you a comprehensive insight into the general points that are to be taken into consideration relative to the future management of the district under my charge.

24. The information which you require respecting the general population, the different articles of produce, &c., &c., will be communicated to you so soon as the *tehseeldars* shall have furnished me

with these particulars, and in reply to the question whether the existing system under which the customs and town duties are levied operates in any manner to check the agricultural prosperity of the country, I have to state that I am not at present aware of agriculture being retarded by the collection of the authorized duties on any of the articles produced in this district. On this point, however, I shall make every necessary inquiry, and if requisite, will again address you on the subject.

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V.—*From the ACTING COLLECTOR of Agra, dated 29th September, 1807.*

GENTLEMEN,—I have the honor to acknowledge the receipt of your letter of the 7th instant. I have also received Mr. Fortescue's letter, dated 22nd instant, informing me that it is your intention to commence the settlement in this district, and to proceed to Agra for that purpose with the least practicable delay. It may be therefore proper immediately to submit to you such general information respecting the state of the district as I at present possess, and particularly to explain to you the nature of the accounts which will be laid before you to enable you to form the settlement.

The district is in general well cultivated, and no very great further improvement can I think be expected either from the cultivation being extended, or from the introduction of the cultivation of more valuable articles than what are already produced. The population is by no means deficient, and the *zemindars* for the most part neither want resources nor seem to be deficient in experience. The proprietary right in the land is not generally contested. There are at present but few causes for estates before the Court. More may be hereafter instituted on the ground of former possession, but I will venture to say that few of the claimants will be able to prove that they held possession under a better title than the present occupants. In short, I am of opinion that the state of the district is in every respect such as would warrant the immediate introduction of a permanent settlement; at least that it is capable of now yielding as large a fixed revenue as Government can expect ever to obtain from it, allowing such room for further improvement as ought to be left to encourage the industry of the landholders and to render their property in the lands of any value. The *Pergunnahs* of Furrah and Futtehpore Sikree ought not, perhaps, to be included under this description. A considerable quantity of land fit for cultivation is still waste or deserted in those *pergunnahs*, owing principally to the devastations committed in them during late and former wars.

But although I am of opinion that the general state of the district would warrant the immediate introduction of a permanent settlement, I do not think that such a settlement can be yet effected,

both from the want of correct information respecting the actual resources of the different estates, and from the unwillingness of the *zemindars* to engage for their land, at such a *jumma* as could be declared fixed in perpetuity without prejudice to the interests of Government

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The *zemindars* here have been so accustomed to changes of Government, and the present has yet been established so short a time, that they naturally do not expect that it will last longer than the former. They will therefore prefer a temporary settlement at a low *jumma* for any term however short, to a permanent one at a *jumma* which, if proportionate to the produce of their lands, would exceed what had ever been paid by them before.

The want of correct information respecting the assets of the lands will render it difficult to form even a temporary settlement in such a manner that the *jumma* shall be apportioned equally on all the different estates

The only documents which I at present possess for regulating the assessment are the *jumma wasilbahee* accounts, delivered by the *canoongos* of the several *pergunnahs*, for a period of ten years ending with 1210, the last year of the former Government. But these accounts are not sufficient. They only exhibit the *jumma* assessed on the different estates in each year of the above period, and the amount realized from them by the *amils*, which did not bear any regular proportion to the capability of the lands. The *amils* under the former Government collected the revenue by violent means, they enforced from the petty *zemindars* nearly the full *jumma* which their estate enabled them to pay, while from those who could make any opposition they were content to accept much less.

The other accounts which will be obtained are those which have been required by you from the *tehsildars*, respecting the quantity of land in cultivation and the different articles of produce. The *jumma ul lee*, or rent-rolls, of the different estates, and the *douls*, or estimates, prepared by the *canoongos* of the *jumma* which each estate is capable of yielding. The accounts of the quantity of land in cultivation, as well as the *jumma bundee* accounts, will be obtained from the *mutauees*, and as these officers consider themselves as al-

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together the servants of the *zemindars* will be deserving of very little credit. The estimates of the *canoongos*, if prepared in the common way, will probably exhibit only the *jumma* which those officers think the *zemindars* will be induced to assent to, or if the *jumma* should be stated in them which it is supposed the estates are really capable of yielding, being formed from no particular information they will be unsupported by any satisfactory proof of accuracy.

With a view to prevent as far as possible falsification on the part of *putwarees* and to procure from them the accounts above described so as to be in any degree useful, I have directed the *tehseldars* to go themselves to every estate, to view the state of the cultivation, and to take the accounts on the spot. I have also directed the *canoongos* to prepare their estimates in the same manner, and to detail in them the quantity of every kind of land in cultivation, and the customary rates of rent which they know to be paid for each kind in their respective *pergunnahs*. Still, however, I am afraid that notwithstanding these directions, the information which will be submitted to you will be very defective, and insufficient for assessing the *jumma* in the manner in which it is desirable it should be done, and that consequently the progress of the settlement will be retarded much longer, perhaps, than you expect.

The account as above required cannot be prepared in less than six weeks or two months. The *zemindars*, also, cannot leave their estates till the month of *Aghun*, as in consequence of the very unfavourable season, cultivation of their land for the *rubbee* crop will not have been completed before that time. It will be therefore impossible to enter upon the settlement, at least to commence taking engagements from the *zemindars*, sooner than the end of November or the beginning of December. My principal object in addressing you at present is to apprise you of this delay, that you may regulate your movements accordingly, as well as to explain the nature of the accounts which are preparing for you, in order that I may receive such instructions respecting them as you may think proper to give me. I should otherwise have postponed replying to your letter of the 7th instant, till such time as I could have submitted the information required in it in a more satisfactory manner than I have now done.

VI.—*From the COLLECTOR of Coel, dated 12th October, 1807.**

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COEL.

GENTLEMEN,—I have hitherto delayed an answer to your letter of the 8th ultimo, with the intention of awaiting the required reports from the several *tehseldars*, in order that I might communicate with you fully upon the various points connected with the present objects of inquiry. Upon a consideration, however, of the probable time which may still elapse before I can be supplied with the detailed information which you desire, I have determined in the present instance to give my sentiments to you generally upon the subject of the ensuing settlement, and to leave the result of the inquiries directed to be instituted for a subsequent address.

With respect to the question of the permanent assessment, whatever benefits may attach to the measure, it does not appear to me that the local circumstances of this country are adapted to the early introduction of this system. In the establishment of a settlement of this nature, the habits of the people, the extent of the population, and the present and probable resources of the country must be considered, and in any point of view it seems to be incompatible with every principle of true policy.

It will be unnecessary to lead you back to the cause of the decline of these once populous and flourishing Provinces. The consequences of the various revolutions which have taken place are sufficiently evident in an impoverished country and a declining population: and the form of Government which has existed, has not operated to relieve the necessities of the subjects, or to improve the resources of this extensive Empire, by the encouragement of husbandry and commerce, and military life has been embraced by a large body of the people. Habits of peace and industry have been neglected for the profession of arms, which was more suited to the disposition of the people and to the character of the times, and which has also tended to affect the revenue, and to thin the population.

The system of rent oppression and extortion likewise which has prevailed, has operated with the most injurious influence upon the prosperity of this country. The exertions of the land-

* See also page 356

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With reference to the question whether the system under which the custom and town duties are levied operates in any manner to check the agricultural prosperity of the country, I am not aware that it has this tendency. It may be expected that the channels of commerce opened to these Provinces will offer great advantages to the cultivators, and any duty is eventually felt only by the consumer.

The other points of your letter I shall have the honor to take up particularly when I receive the replies to the various interrogatories proposed. I have merely given this general view of the questions relative to the settlement, that I might have the opportunity of expressing to you my sentiments upon this head as early as possible,

VII—From the COLLECTOR of Cawnpore, dated 31st October, 1807

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CAWNPORE

GENTLEMEN,—I have the honor to acknowledge the receipt of your letter, dated the 7th September, requiring my opinion on the propriety of declaring the ensuing settlement of this district permanent, subject to the final sanction of the Hon'ble the Court of Directors

It is obvious that a permanent settlement will greatly tend to call forth the exertions of individuals to extend the cultivation as far as possible for their own advantage, and it is well known that any settlement for three or four years can never have that effect. It takes nearly that time to get land into the highest state of cultivation, and it is a fact that in the last year of a settlement of the kind, the *zemindars* will reduce the cultivation with the view of obtaining an abatement in the revenue, in consequence of the apparent deficiency of assets. I have, therefore, no hesitation in saying that as far as regards this district, the permanent settlement is by far the most advisable of the two. I beg, however, at the same time to submit as my opinion that some medium between a permanent settlement and a settlement for three or four years would seem to do away the inconveniences of both, and I consider that if the *jumma* assessed on the district in the last year of the ensuing settlement was declared fixed for 10 or 15 years, that every advantage would be derived that could be expected from a permanent settlement as far as regarded the improvement of the country, and Government would not thereby be prevented availing themselves of the advantage that might accrue in the formation of another settlement, and should the assessment then be found fair and proper, it might be declared permanent.

1st.—Not having as yet received the statement from the different *tehseldars* agreeable to the form furnished by the Board on the 5th August, I cannot reply particularly as to the quantity of land in cultivation and the quantity uncultivated but capable of cultivation. These reports shall be forwarded as soon as received. I believe it may, however, be admitted that the quantity of land out of cultivation is not more than one-third of the actual measurement of the district, including both the land that is capable and that which is not capable of cultivation.

2nd—Of the population of the district I have not the most distant idea, but I am led to suppose it is fully adequate to its present cultivation, but not probably to any great increased cultivation.

The great objection to the natives to any measures that it might be necessary to adopt to ascertain the population of the country from apprehension of the intent being to establish a population tax, renders it almost impossible to obtain any correct information on the subject.

3rd—The chief article of produce in this district, exclusive of the common grain for home consumption, is cotton, sugar, and some indigo; the former is, however, the principal article, of which great quantities are annually exported to the Lower Provinces.

With the view to the improvement of the country by extending the cultivation of the more valuable articles of produce, some encouragement might be held out to the manufacturers of indigo to settle in these Provinces; and as an example of the importance of the indigo cultivation, I beg to instance the *Pergunnah* Sulempore Dhomunpore in this district, adjoining the estate of Nujufgurh, formerly held by Colonel Martin and subsequently by Mr. Quiros. During the time the indigo manufacture was carried on by these gentlemen, the *pergunnah* thrived, but fell off greatly when the cultivation was discontinued, and in the formation of the second triennial settlement, I was obliged to grant a very large abatement; and I am confident the *pergunnah* is now very far from being lightly assessed, and never can yield near so large a revenue as while the indigo manufacture was carried on.

4th—With the view of obtaining the best information to enable a fair and equal assessment of the district to be made, the *tehseeldars* have been called upon to furnish the *kutchah* produce of each estate for the last three years with their *douls*, or estimates, which should have been furnished long ago, but from great dilatoriness on their part have not yet been sent in by the greater part of them. Generally speaking, it is difficult to ascertain the exact increase that may with propriety be made on such estates as afford an advantage to the *malgoozars*, who of course will do all in their power to prevent their

real produce being made known. In such estates as are heavily assessed information may be more easily obtained, and the over-assessed estates are in general well known. A great part of them have at different times been sold by public sale for balances of revenue, and the amount realized by the sale is not an unfair criterion of the justice of the assessment.

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It may, I think, be generally admitted that those estates whose assessment in the second triennial settlement was the same as in the first, and which were engaged for by the same persons as held them during the first settlement, are not over-assessed, and on the contrary, when the *malgoos* who held the lands during the first settlement refused to engage again, notwithstanding an abatement was granted, that such estates are still over-assessed, and at the formation of the next settlement it will in all probability be found that any remission to be granted will fall principally on those estates in which an abatement was before made, for it is obvious that if an estate is over-assessed, and an abatement is granted, yet the estate cannot improve unless the abatement is in proportion to the over assessment.

5th—I am aware of no objections that could be made by the landholders to a permanent settlement on easy terms. Their resources are generally very small, and under a system of making settlements for three or four years can never increase, but it is to be expected that their circumstances will greatly improve under an equal and easy assessment for a fixed period of years.

The proprietary right in many instances being contested, would appear to me to be no bar to a fixed assessment—settlement being made with the person in possession, or who may appear to have the best right. Anybody who conceives he has a better claim may always have recourse to a prosecution in the Court against the man in possession. It might, however, be necessary to insert a clause in the *pottahs* to that effect, but on whatever terms the settlement may be made, I beg to express a hope that the Board will adopt such measures as will prevent the persons engaging with Government from under-letting their estates to others at a higher rate than is payable to Government.

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6th—I am of opinion that in many instances it will be necessary to make a *russud jumma*, particularly in estates which from having been over-assessed have fallen off; but that every advantage to be derived from a *russud jumma* may be obtained in four years, beyond which time for whatever period the present settlement may be declared to extend, the *jumma* should be equal in each year.

7th—Never having been employed in any way in the Customs Department, I have not given the subject much attention, and am unable to afford any particular information on the subject.

VIII —From the COLLECTOR of Allahabad, dated 8th January, 1808

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—
ALLAHABAD.

SIRS,—I have the honor to acknowledge the receipt of your letter of the 7th September last, and regret that I possess not the means of giving you such ample and accurate information as the subject of it requires, that which is now submitted being merely general, and such as results from the experience I have acquired during the short period this district has been under my charge

2 The records of this office are not by any means complete, or so correct as to enable me to answer with confidence the several queries proposed to me, nor do I conceive that any true knowledge of the resources of this district can be attained, or that a settlement equitable both to Government and the farmer, can be made, until the measure submitted by me in April, 1805, to the Board of Revenue, be adopted. The step at that time wished to be carried into effect previous to making the triennial settlement now expiring, was to depute an *ameen*, with two writers and five peons, into each *pergunnah* to take copies of the *putwaree's* and *canoongo's* accounts, also to make a general survey and measurement of the lands, distinguishing the arable, the waste, and that under cultivation, with the general produce of them under the last ten years.

3 Independent of the above, a *suller ameen* and *mohurrir* were to be temporarily established at the Collector's *kutcherry* to reduce the report and papers of the *mofussil ameens* into one general head or book, ultimately to be supervised and acted upon by the Collector on a local and personal examination in his circuit through each *pergunnah*, when engaged on concluding the settlement of them

4 Materials would have been required by the above measure as correct as the nature of the case admitted, forming a basis for an equitable settlement of the country. The revenue assessed on each estate would then have been in proportion to its actual powers of produce. The mensurate quantity of the lands, the state of them in reference to the agriculture, the condition of the peasantry and of the proprietors the validity of the claims of the latter to the

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several properties, and generally the information now required by the Board of Commissioners would have been obtained, and at this time ready for them to act upon in executing their present orders.

5. Under the ignorance of these points so important to be known in completing the arrangements proposed by the Board for the settlement now commencing, and from the inaccurate manner in which the two last settlements were of necessity concluded, I would recommend in preference to a perpetual engagement with the proprietors, a decennial settlement at an annually increasing *jumma*.

6. It has been the practice of the cultivators in this district to leave the larger portion of their lands uncultivated during the terminating year of each settlement, for the purpose of engaging on the actual quantity of ground tilled and sown. Other lands they denominate waste, but which are capable of being ploughed and of yielding a return, they purposely neglect until a permanent settlement be concluded, as the produce of these lands would in this case be their own, and the value of the estate in many instances be doubled to them.

7. In the event of the Board forming a permanent settlement on the expiration of the next four years, it will be advisable to include in the valuation of each *zemindaree* such of the lands at present uncultivated as may be arable, affixing a *jumma* for the first year and increasing it annually to nearly the estimated return of them. To do this, it is necessary the quantity of *beegahs* now waste be known, and in what portions they are attached to the several estates in each *pergunnah*; but this knowledge is wanting, nor do the records of this office afford it.

8. The first question of the Board's letter under the 6th paragraph requires a reply on the above point, and the answer is expected from the *tehseeldars* in the reports directed to be sent in by the *canoongos* agreeably to a given form. Accurate information cannot be expected from these persons. They are chiefly proprietors themselves, or hold estates in virtue of certain deeds, or are connected

with the *zemindars*. The *choudry* and *canoongo* of Ikhdulla possess in the above manner nearly the whole *pergunnah*, and the *mehals* of the other *pergunnahs* are situated in a greater or less degree similar.

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9. In regard to the population of the district, I am totally ignorant. It is constantly varying, the *ryots* at one time deserting the neighbouring countries, at others quitting this Province. I cannot therefore hazard even a conjecture.

10. The several articles of produce are stated in the reports of the *canoongos*, and may be more depended upon as correct than other points of their statements, as there cannot be any inducement for them to disguise the truth. The encouragement of the cultivation of the sugarcane would increase the value of the lands, this article and betel being, I believe, considered the most valuable, it, however, requires more capital and means to undertake this cultivation than the generality of the *zemindars* possess.

11. The 6th paragraph under the queries I have before adverted to. I certainly do not conceive that Government could make a perpetual settlement in this district at the end of four years but at a loss, unless a survey and measurement of the country were previously taken, and the waste lands capable of cultivation now purposely neglected were included in the estimated produce of each estate. In fact, there has not been any real settlement of the country in Allahabad to make one; it will be necessary to proceed into the capital *mehals* of each *pergunnah* to ascertain every point regarding a settlement, each of which the Board have so accurately noticed in their queries, and to form the engagements on the part of Government with the actual proprietor, to the exclusion of every farmer; the latter being, in most cases, persons who have acquired the lease of the property at a *jumma* exceeding its powers of produce and the means of the proprietor, or in others are men of property who hold the estates, the *zemindars* being the actual cultivators. It will ever be more advantageous to the country and the ruler to place the lands in the hands of those interested in their improvement, from these being not only a secure property to themselves, but an inheri-

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tance to their children ; neither of which the farmer considers them, but only as the means of present gain at all times likely to be taken away.

12. The statements required from the *canonges* of this district, with translations into the English language, accompany this letter.

13. The estimates, or *douls*, directed to be prepared by the *tehsildars*, I expect will be ready for dispatch in the course of the current month.

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IX.—From the COLLECTOR of Bareilly to the BOARD OF COMMISSIONERS, dated 1st February, 1808.

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GENTLEMEN,—I have the honor to acknowledge the receipt of your letter addressed to my predecessor, under date the 7th of September last, and I trust the short time I have been in charge of this Collectorship will be deemed a sufficient excuse for the delay that has occurred in replying to it.

2. From the inquiries I have been able to make, and my personal observation on such *pergunnahs* as I have been able to visit, I have no hesitation in declaring that an immediate *mokurraree* settlement would be most injurious to the interests of Government. The present resources have not been by any means exactly ascertained, and I am of opinion that a *mokurraree* settlement should not be introduced in less than ten years from the commencement of the ensuing *Fulsee* year, by which period Government may derive a very considerable increase of revenue, and at which distant period, most of the proprietors and farmers will have abundant scope for progressive improvement.

3. The ensuing settlement I am of opinion should not be concluded by any general rule for assessment, but at a fixed annual *jumma* or progressive increase, as the state of cultivation and situation of the parties may admit.

4. In some *pergunnahs* the cultivation is very considerable, and yet in those there is still a great extent of waste land; but which from its general appearance and the result of my inquiries, I think might be brought into cultivation at no very distant period. The *malgoozars* plead their present poverty, also the scarcity of *ryots*; the latter are, however, increasing.

5. I am led to think benefit might be derived from a village settlement being more generally introduced, when the exertions of individuals will be called forth, and a progressive improvement will necessarily ensue.

6. Proprietary right appears in this district to be very doubtful, and there is scarcely a farm for which deeds of various descriptions are not produced by different persons.

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*. The statements required by your letters of the 5th September and 5th December, will no doubt afford much general information, though I am led to think that the estimated quantity of land stated in them will be very incorrect. Indeed, lately, in talking with farmers in their villages regarding the present state of them, they immediately quoted the statement preparing, and from the general tenor of their communications I was strongly led to suspect collusion. Indeed, mostly all the *tehseeldars* have represented the differences that existed between the statements of the *canoongos* and *putwarees* on this point.

8. The ensuing settlement should I think be commenced on in the *pergunnahs* forming this district in 1210, as soon as possible after the *douls* have been furnished.

9. The *pergunnahs* transferred from *Zillah Moradabad*, in which there are considerable balances from persons not at present in possession, to be postponed until after the payment of the last *kist* of the current year.

10. It is very desirable that the engagements for the ensuing settlement should be concluded by the close of the current year, by which means the first *kists* of the ensuing will be realized with more facility.

X.—From the COLLECTOR of Moradabad, to the BOARD OF COMMISSIONERS, dated Moradabad, the 5th March, 1808.

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MORADABAD.

GENTLEMEN,—I have the honor to acknowledge the receipt of a letter from your Sub-Secretary, dated the 7th September last, and to transmit the accompanying reports of the *tehseldars* detailing the information required under the orders of the foregoing date.

2. It appearing to me that the *tehseldars*' reports could be more clearly explained if exhibited at one view, I have accordingly translated them in the enclosed statement, a counterpart of which in Persian is also enclosed, including every particular mentioned by the *tehseldars*. The reports were in the first instance separately translated, and if separate translations should be required copies can be furnished.

3. The statement consists of 12 Divisions. The first Division exhibits the principal articles of produce. The articles more peculiar to this district for their extensive cultivation are sugarcane and rice. The other chief articles are wheat and cotton.

4. Divisions 2nd, 3rd, and 4th exhibit the months in which every article of produce is sown, transplanted, and reaped. The sowing months are five—*Asarh*, *Saun*, *Koar*, *Kartik*, and *Phaugun*. The transplanting months, three, *Saun*, *Koar*, and *Phaugun*. The reaping months, seven—*Bhaudon*, *Koar*, *Kartik*, *Ughun*, *Chey*, *Bysakh*, and *Jayt*.

5. (5th Division).—The estimated quantity of land in actual cultivation is, according to the *tehseldars*' reports, 17,10,443-3-0, or about 17 *lakhs* and ten thousand *beegahs*, but I have reason to think the amount will hereafter be found to be greater.

6. (6th Division).—The quantity capable of being brought under cultivation is estimated as follows :—

(6th Division.)

<i>Chunchur</i> lands,	41,055	3	0
<i>Bunjur</i> ditto,	13,17,627	17	0
Jungle ditto,	7,31,754	5	0
Total,	20,93,437	5	0

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which added to the quantity in actual cultivation makes the cultivated and arable lands amount to 38,03,880-8-0, or about thirty-eight *lakhs* of *beegahs*.

7. (7th Division).—The waste lands unfit for tillage are estimated as follows:—

<i>Shor</i>, ...	...	...	2,41,381	2	0
<i>Kullar</i>, ...	...	...	1,12,992	17	0
Jungle,...	...	...	19,810	0	0
Rivers and Tanks, ...	...	...	2,25,780	8	0
Village, and Roads,...	1,27,895	0	0

Total of waste lands unfit for village,...	7,27,860	0	0
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which added to the quantity of cultivated and arable lands, makes the *khalsa* lands amount to 45,31,740-8-0, or about 45 *lakhs* and a half.

8. It is to be observed that the jungle lands noted in the 7th Division, do not include the extensive forests and woods contiguous to the Hills.

9. Division 8th exhibits the estimated amount of the lands stated to be held rent-free as follows:—

Land now paying a <i>nuzurana</i> , or quit rent, of Rs. 45,570-10-0,	...	4,83,136	10	0
Lands alleged to be held rent-free,	...	7,21,129	13	15
Totals, <i>beegahs</i> ,	...	12,04,266	3	15

or about 12 *lakhs* of *beegahs*. The estimated quantity of rent-free lands is taken (for the present purpose only) from the account delivered by the *canoongos*, and *mutawallis* for the *Fuslee* year 1210. It is apprehended that the alienations of lands paying revenue have been considerable, particularly in the Cession of the district.

10. The *khalsa* and rent-free lands give a grand total of 57,36,006-11-15, or about 57 *lakhs* and a half, of *pucka beegahs* in

the district. The estimate, however, as is to be expected, is not exact. The district of Moradabad contains, according to the Surveyor-General's new map, 6,640 square miles, which may be readily reduced into *beegahs*. A *beegah* contains 60,*

* 40 *Angoosht* 1 *Guz*.
3 *Guz* 1 *Guntha*.
20 *Guntha* 1 *Beegah*.

Ilahee yards of 33 inches, or 55 English yards, a square mile consequently contains

1,024 *beegahs*, which multiplied into the total number of square miles gives 57,99,360 *beegahs*. Of this amount 3,72,736 *beegahs* may be the portion occupied by forests, and the remainder of 64,26,624, or about 64 *lakhs* and a quarter, is the total area in *beegahs*. The estimate produced by the *tehsildar* consequently, short of the truth, in nearly 7 *lakhs* of *beegahs*, and I conclude that when the measurements which are now going on shall be finished, the contents will appear to be nearly what is above stated. The actual measurement generally gives a greater quantity than the estimate.

11. Divisions 9th, 10th, and 11th exhibit the estimated quantity of articles produced, consumed, and exported as follows:—

		<i>Produced.</i>	<i>Consumed.</i>	<i>Exported</i>
Grain,	...	44,75,001	30,13,550	14,61,451
Molasses and Sugar,		3,70,723	1,61,193	2,09,479
Cotton,	...	1,61,107	81,116	79,991
		<hr/>	<hr/>	<hr/>
<i>Maunds,</i>	...	50,06,831	32,55,859	17,50,921
		<hr/>	<hr/>	<hr/>

The estimated quantity stated to be produced is about 50 *lakhs* of *maunds*. The amount is obviously below the truth, as the inhabitants themselves would probably consume more than the amount supposed to be produced.

12. Division 12th, under the column of remarks, will explain the plan by which it is proposed to bring the arable lands into cultivation. It is subdivided into three parts: first, *bunjur* lands, second, *jungle* lands, and 3rd, an estimate of the period to come when the arable lands may be assessed at the ordinary *pergunnah* rates from the commencement of the cultivation. The *chunchur* lands (uncultivated for one, two, or three years) are not included in the 12th Division, because it is presumed that the *chunchur* lands in general are lying fallow.

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13. The plan exhibits two modes of assessment; 1st, the *umullee* or share of the estimated produce on which the *jumma* of Government is farmed by reducing it into rupees; 2nd, *nugdee*, or fixed money rate per *beegah*. The figure at the top of the column shows the years in which the different shares and rates should be respectively applied. For example, in *pergunnah* Moradabad (the first) under the *umullee* assessment, the assessment for the first year is one-fourth of the *maund*, or ten *seers*, to Government; in the 2nd year one-third or 13½ *seers*; in the 3rd year two-fifth, or 16 *seers*; the remainder being of course the share of the farmers and *ryots*. In the fourth year the lands are assessed at the rate of the *pergunnah* again. Under the *nugdee* assessment, the *pucka beegah* for the first year is assessed at 6 annas, the 2nd, 9 annas, the 3rd, 12 annas, and the 4th year at the ordinary rates of the *pergunnah*.

14. I beg leave to observe generally that waste lands are for the 1st and 2nd year assessed under the *nugdee* settlement from 3 to 6 annas, the *pucka beegah* increasing progressively according to circumstances, until they are sufficiently cultivated to bear the rate of common lands; and that under the *umullee* settlement it is usual to take only one-fourth or one-fifth of the *maund*. The *nugdee* assessment is, however, the most simple and the best to adopt in all practicable cases: particularly in clearing the lands.

15. Your Board will observe that the arable lands can generally be cultivated in the course of five and six years after the cultivation shall have commenced. If one quarter of the arable lands were to be cultivated, the assessment would at the average rate amount, in the course probably of seven or eight years, to about 7 *lakhs* and a half of rupees, which added to the present *jumma* would render the future *jumma* between 31 and 32 *lakhs* of rupees. The amount would, however, still fall short of the land revenue, under the Government of the *Pathans* by about 10 *lakhs*, of which satisfactory documents shall be given in other reports. Between three and four hundred villages containing about one *lakhs* and seventy-six thousand *beegahs* have been very moderately assessed and brought under partial cultivation; many waste villages yet remain, and in several parts of the district, particularly the northern and southern, the villages in com-

men have not above a quarter of their lands under cultivation ; but I have not the slightest doubts in respect to the increase of agriculture throughout the whole Province of Rohilkhund, and of the consequent improvement of the public resources.

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16. I forbear to submit at present any further observations; but a supplementary report shall, as soon as possible, be furnished relative to certain points contained in the statement.

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XI.—*From C. RUSSELL, Esq., Acting Collector of Allygurh, to SECRETARY TO THE BOARD OF COMMISSIONERS, dated the 16th April, 1808.**

SIR,—Agreeably to the orders of the Board I have now the honour to forward to them the whole of the required statements of the *pergunnahs* under *tehseldars* for their information. Those which yet remain to be furnished from the various farmed *meahls* under the powerful *talookdars* shall be hereafter forwarded, as they can be prepared. From the statements which have already been transmitted to the Board, they will have observed the present state of the cultivation, and will be able to form a general idea of the district at large. At the same time they will be aware that notwithstanding these are the best documents which are at present procurable, they must be, in all probability, in many instances defective. A considerable difference appears between them and the former measurement taken in the reign of Akbar, both in point of the extent and quality of the lands. But how far this deficiency may be accounted for, or from what cause it may have resulted it is immaterial to examine after the lapse of years which have intervened. The inquiry would only lead to perplexity of doubt, and after all, the question must ultimately depend upon further measurement.

Whatever may be the defects, however, of the present documents, they are sufficient to show that a considerable proportion of those *meahls* is lying waste and uncultivated; that they have latterly progressively improved; and that if their resources were fully called forth, they would be productive of an extensive increase to the public revenue. To these points of information, which were directed by the Board, the statements are adequate as far as they apply; and if the deficiency between them and the original measurement be correct, the circumstance will only add in an equal ratio to the capacity of the country.

In tracing the causes to which the uncultivated state of this country may be attributed, the want of means among the generality of the landholders may be considered as the most immediate and effective. Under the abusive exercise of authority and the oppressive system of collection which prevailed under former Governments, they

were frequently deprived of the profits of their industry, and such is their impoverished condition that many instances have occurred where the *zemindars* rather than subject themselves to the difficulty and distress they would experience in the payment of their *kists*, have requested that their lands might be given to a farmer, who should be responsible to the Government, and who might assist them with cattle and with implements of husbandry. That the low state of population has also operated as another cause to the declining cultivation, there is no doubt. The ravages of famine in the years 1783 and 1793, carried off a vast number of the inhabitants of these Provinces, and the events of war and the habits of the people, which led them to emigrate and to enter into foreign service as soldiers of fortune, have further contributed to depopulate this country. But I, nevertheless, consider that the population is equal to its improvement, and that means only are required to give efficacy to its powers. I believe I may confidently assert that we are progressively advancing to the attainment of this object; and as the landholders gradually recover from the effects of the rapacity and extortion of the former *amils*, and possess more adequate means to apply to the purposes of husbandry, we may reasonably calculate upon a material extension of agriculture, and upon a proportionate addition to the public assessment. With the increase of resources will result also, as a natural consequence, the more general introduction of the more valuable articles in such parts where the land is capable of the highest culture, and which is at present neglected or applied only to the commonest produce, owing to the poverty and inability of the individuals not admitting them to incur the expense necessary to bring them into cultivation.

With respect to the extent of the resources which, under more favourable circumstances, might be produced from these *mohals*, the statements afford ample testimony. The proportion of the lands capable of cultivation and at present paying revenue to Government is only three-fifths; or for twelve lacs of *begahs* cultivated eight lacs remain waste and deserted. Of these lands the *bunjar* are of a nature to be brought under tillage with very little difficulty or expense. The greater part of them have only been neglected within the last eight or ten years, and some within a much shorter period;

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XII.—*From J. D. ERSKINE, Esq., Collector of Bundelkhund, to the BOARD OF COMMISSIONERS, North-Western Provinces, dated the 13th of January, 1808.*

GENTLEMEN,—I have the honour to acknowledge the receipt of your letter of the 7th September last, desiring me to furnish you with particular information respecting the district under my charge, as well as with my sentiments with regard to the nature of the settlement which may appear to me to be best suited to the country under existing circumstances.

2. The time required in obtaining from the *tehseeldars* in charge of the different *pergunnahs*, the necessary information on many points connected with the general state of the district, has considerably delayed the transmission of this report. But, having previously submitted to the Board a separate address relative to the settlement of the *jaydad* portion of the *zillah*, the conclusion of which was rendered immediately necessary, I should hope that no material inconvenience has been occasioned by this delay.

3. The sources of information regarding this district are extremely imperfect. There are no intelligent native inhabitants who possess a general knowledge of the country; and from the short period of time during which the British authority has been established in the greatest portion of the territory, it can hardly be expected that the public officers of Government have hitherto acquired any very accurate or extensive information relative to its available resources.

4. From every information which I have been able to obtain respecting the districts under the authority of the British Government in this Province, it would appear that those possessions were formerly in a state of much higher improvement than at present, and that the revenue drawn from the country was much greater than that which is now collected from it. Although I am not disposed to give credit to many exaggerated statements relative to the former revenues of the country urged without any sufficient grounds, yet the position is in some degree supported by a review of the actual state of the cultivation, compared with the capability of improvement which the country apparently possesses.

5. From the estimates of the quantity of cultivated and uncultivated land in each *pergunnah*, delivered into this office by the *tehseldars*, agreeably to the orders of the Board, under date the 5th of September last, it appears that little more than two-thirds of the arable land in the whole district is actually under cultivation. Admitting a certain portion of this land to be necessarily left in fallow, this calculation will afford an increase of cultivation of at least one-fourth, and consequently a proportionate augmentation of the public revenue. I am far from imagining that this estimate exceeds the real quantity of arable land uncultivated; I rather conceive that it falls greatly below the actual proportion. The estimates given in by the *tehseldars*, also state the proportion of lands not capable of cultivation to be nearly one-third of the area comprised in the whole district. This calculation certainly appears to me to be excessive, and I am induced to make this remark from personal observation with regard to the greatest portion of the *zillah*.

6. A general estimate of the above nature, formed merely by conjecture, and not upon data drawn from investigations actually instituted, cannot of course be relied upon as accurate: at the same time it may furnish a sufficient proof that the present state of the agriculture of this district generally falls considerably short of the extent to which it is capable of being carried under favorable circumstances and by a wise and judicious system of management.

7. The proportions of the cultivation throughout the country are far from being uniform when compared with the capacity of the lands. These proportions differ with reference to the different *pergunnahs*, and to the different villages in the same *pergunnah*. This inequality has, of course, arisen from a variety of causes, of which the principal have been partial oppression, and the unsettled state in which the country has for several years remained with regard to its rulers. Those *pergunnahs* which were held under the personal management of the late Nawab Ali Bahadoor, are generally in a state of good cultivation. Other *pergunnahs*, which were delivered over in *jajher* to different chiefs for the support of troops, whose tenures were uncertain and temporary, have been greatly impoverished by mismanagement and exaction. In addition to this evil, several portions of the country, particularly the *pergunnahs* of Soopa

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and Punwaree, remained always in a state of disturbance, and were never effectually brought under the authority of the *Mahratta* Government. That portion of the district which composed the *jaydad* of the late *Rajah* Himmur Bahadoor, is likewise in a state of very unequal cultivation. Several *pergunnahs* of that district are well cultivated, whilst others have suffered greatly from exactions practised by different *amils* during the latter period of the management of Kooar Kunchun Geer.

8. The same inequality which exists with regard to the cultivation of the country, of course takes place in the distribution of the inhabitants. Many portions of the district are well peopled and highly cultivated, whilst others are almost entirely depopulated and waste.

9. With respect to the proportion which the population bears to the agricultural powers of the country, I do not conceive that it can safely be calculated much beyond that which is equal to embrace the existing state of the cultivation. It cannot well be supposed that the *zemindars* would employ more labourers in the cultivation of their lands than were requisite for that purpose; nor that this class of the people can much exceed the number actually employed. In considering this subject as connected with the increase of cultivation, it is necessary to take into consideration the checks arising from the sub-divisions of property. The industry of every *zemindar* is of course limited in a great degree to the extent of his own lands, and the population of one village cannot freely extend over the lands attached to another village, even though in its vicinity. At the same time, however, whilst one portion of the country is cultivated and well peopled, that circumstance certainly affords a facility in cultivating the portion which is waste. It may, no doubt, be presumed that those who now gain merely a subsistence by their labour, may probably be induced to make greater exertions of industry, but the general cultivation of waste lands must, in my opinion, depend chiefly on labourers coming into the country, or upon the natural progress of the population. Under favourable circumstances, the increase of population may be expected to be rapid, and the same circumstances will also encourage new settlers to establish themselves in the country.

10. The extent of the cultivation in this Province is very great in proportion to the quantity of the produce. The general rates of land throughout the district are consequently very low. The quantity of cultivation agreeably to the estimates of the *tehseldars* is stated at 15,18,496, *beegahs* and revenue drawn from the lands amounts to Rs. 26,88,529. These data do not afford an average revenue of more than Rs. 1-12-10 per *beegah* on land actually cultivated. As this estimate of land under cultivation is, however, in my opinion, much below the real quantity, the average revenue per *beegah* throughout the district ought to be reckoned at much less than the above calculation, probably at little more than Re. 1 per *beegah*.

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11. The principal articles of produce which engage the industry of the *zemindars* in these provinces are cotton, *aul*, *jowar*, *lajra*, *kodo*, *til* and *urhur*—productions of the *khurreef* harvest; and wheat, barley, and *nulhood* or gram—productions of the *rulbee* harvest. A very large quantity of sugar-cane is likewise raised in this Province. The proportions of the *khurreef* and *rulbee* harvests differ in different *pergunnahs*, but upon the whole, the *rulbee* crops occupy nearly two-thirds of the cultivation of the district.

12. The cotton is the most profitable crop sown during the *khurreef* cultivation; and this article forms the chief object of commerce in the province of Bundelkhund. It is purchased from the cultivators for ready money, either by merchants residing in the district, or by agents deputed for that purpose, during the season of the harvest. Sometimes the *zemindars* receive advances from the merchants for the cultivation of the crop, on engaging to deliver the produce, at about eight annas per maund below the current market price at the time of delivery. The principal mart to which almost all the cotton of this district is transported is the mart of Mirzapore. The cotton produced in the western part of the district is conveyed by the route of Calpee. It is thence carried across the Jumna, and transported by land carriage to Cawnpore, from which place it is conveyed by water carriage down the Ganges to Mirzapore. Hitherto little or no cotton, the property of individuals, has been transported by the way of the River Jumna. From the eastern part of the country, the cotton is generally transported across the Jumna, and con-

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veyed by land carriage to Allahabad, and thence by water to Mirzapore. Formerly, a considerable quantity of cotton was transported to Mirzapore by the way of Beer Gheer on this side of the River Jumna, but that road is now hazardous and is little frequented. The cotton of this district is not generally of so fine a quality as that which is imported from Nagpore. A particular species, however, is produced in the *pergunnah* of Beer Gheer, in the vicinity of the Ghauts, which is considered as of equal fineness with the cotton of Nagpore, and bears an equal price.

13. *Aul*, a species of root from which a red dye is prepared, is a very profitable article of cultivation. It is produced in a considerable quantity in a few *pergunnahs* of this district, and is exported to the Doab, to Jhansie, and the country in that vicinity, where it is principally used in dyeing the *Kharwa* cloths manufactured in that territory. The culture of this article is very laborious; and as the root does not arrive at perfection in less than a period of three years from the time of its being sown, few *zemindars* can wait so tardy a return of their profits.

14. A small quantity of indigo is raised in the western *pergunnahs*. That which is not consumed in the district is exported to Jhansie, Mow-Ranipore, and the foreign territory to the westward.

15. The other productions of the *khurreef* harvest, consisting of the coarser kinds of grain, compose the principal food of the inhabitants, and are all consumed in the district.

16. Some rice of a coarse species is produced in this *zillah*. But the greatest proportion of that article which is consumed in Bundelkhund is imported from the adjoining districts in the Doab.

17. Wheat is not only the chief crop of the *rubbee* harvest, but forms the greatest source of profit to the *zemindars*. The wheat produced in this province differs in quality from that raised in the Doab. It is of a coarser species, the grains are larger, and of a darker colour. This species of wheat appears to thrive better in the soil of this province than the finer species grown in the Doab, which not only requires watering, but also affords a very scanty crop. A great proportion of the wheat raised in this dis-

trict is exported to the country above the Ghants to Khutola, and to the foreign territory on the south-west frontier. That country is entirely supplied with this article of consumption from the *pergunnahs* of this *zillah* and from Gurra Mundela.

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18. A very small quantity of barley is grown in Bundelkhund. The barley of this country, and, I believe, of India in general, is of a coarse species, and has three rows of grain on each ear. As the consumption of this article is very inconsiderable, little or none is imported from the Doab.

19. *Nukhood*, or gram, bears a very considerable proportion to the general cultivation of the *rubbee* harvest. It is mostly expended in the consumption of the district. A small quantity is exported towards Adjyghur and Khutola.

20. The quantity of sugar-cane grown in this province is very inconsiderable. This circumstance chiefly arises from the nature of the soil, which is unfavourable to its production, but partly also from the indigence of the *zemindars*. Upon inquiry it would appear that a much greater quantity of that article than is now cultivated, was formerly raised in this district.

21. It may, I think, be doubtful whether any new articles of produce can be advantageously introduced into the cultivation. My information is, indeed, not sufficiently extensive and minute to enable me to give a decided opinion on this subject. It is probable, however, that the present productions of the country are both best adapted to the soil, and to the state of the demand. Under favourable circumstances, and with a free and extended commercial intercourse, it may be expected that the *zemindars* will naturally discover those productions the cultivation of which will yield the highest profit.

22. Improved modes of agriculture might probably be suggested after experiment; but I am not prepared to offer an opinion on the subject. In proportion as the *zemindars* become opulent, they will acquire the means of extending the cultivation of the more valuable articles of produce. Improvements of that nature being attended with additional expense, necessarily require an increase of funds to enable the *zemindars* to lay out money in such undertakings.

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23. In a former report to the Board of Revenue, I stated the circumstance of there being no wells nor artificial reservoirs in this district for the purpose of watering the lands. The crops depend entirely upon the rains during the periodical season. Indeed, it does not appear that the crops in general in this province require watering so much as those in the Doab, nor that the soil requires so much rain to enable the *zemindars* to till and prepare it. The soil in general is of a loose nature, and is easily cultivated; and if the rains do not fail in a great degree, it retains sufficient moisture to encourage the vegetation of the crops. This observation is, of course, limited to the greatest portion of the lands. There are lands of particular descriptions which, from the lightness of their soil and their elevated situation, require a considerable quantity of rain to aid the crops. The chief obstacles to the introduction of wells are the depth at which the water is generally situated from the surface, and the nature of the soil, in consequence of which the wells fall rapidly into decay. Wells would, therefore, become very expensive, and it would require a very heavy crop to repay the expense to the *zemindar*. It appears to me, however, that as the introduction of wells would not only increase the produce, but by rendering the crops less subject to failure, conduce to the security of the revenue, the practicability of the measure is not unworthy of a careful and attentive investigation, with the view of giving encouragement to such *zemindars* as may be desirous of undertaking the experiment. I have directed the *tehseeldars* to signify to the landholders, that advances for the purpose of constructing embankments or digging wells, will be made to them by Government, under the terms prescribed in Regulation XLIV. 1803.

24. Many *zemindars* in this district have, from various causes, been reduced to a state of great indigence; and one of the most beneficial measures which can be adopted by Government towards the encouragement of agriculture is that of advancing *tuccavee* to those *zemindars* for the purpose of aiding them in the cultivation of their lands. The high rate of interest demanded by native bankers frequently operates as a great oppression upon indigent *zemindars*, and such *zemindars* are often even unable to obtain advances from bankers upon any terms whatever. The relief, therefore, afforded to them by Government becomes of the utmost importance, not only as

an act of benevolence but of policy. The principal precaution which seems to me to be necessary in granting this aid is to ascertain that those; *zemindars* to whom *tuccavee* is advanced, stand really in need of that assistance which it is the wish of Government to afford.

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25. I cannot omit to mention one check to improvement which, though temporary, yet in particular instances operates somewhat severely upon a few *zemindars*, in a country which has recently been under an oppressive system of Government—I mean the old debts contracted to bankers on account of the former revenue. If the *zemindars* do not voluntarily discharge those debts, the claim becomes a source of litigation in the Court of Justice. I have stated this circumstance from having in several instances witnessed its effects in diminishing the means of the *zemindars*, not only to improve their lands but also to discharge the public revenue.

26. The situation of the landholders in this province, with reference to the nature of their tenures, forms, in my opinion, a subject of the highest importance in considering such measures of policy as may be best adapted to promote the general prosperity of the country. I must acknowledge my inability to discuss this question in the full and comprehensive manner which its importance demands; at the same time I take the liberty of annexing to this report, for the information of the Board of Commissioners, an extract from a letter addressed by me to the Board of Revenue, containing some observations on that subject, together with a copy of the orders of the Board on several of the measures which I therein ventured to suggest.

27. From the numerous sub-divisions of property in each village under the tenures in this province, the Board of Commissioners will be pleased to observe that the general improvement of the lands must depend entirely upon the individual exertion of each sharer. The protection and security of each sharer from the injustice and oppression of his brethren must therefore form an important subject for the consideration of the Board.

28. Another subject, intimately connected with the prosperity of the landholders, is the system of collecting the public revenues, where so many sharers enter into one engagement with Government.

29. At present, the inferior sharers of an estate pay their revenue through the principal sharers, and the principal sharers, according to the usage of the country, pay their proportions of the revenues separately to the officers of Government. There are no engagements between any of the sharers; the *putwaries'* accounts are the only record exhibiting the amount payable by each individual. The principal sharers jointly engage with Government for the revenue on the part of the whole village. Under these circumstances, in the event of an inferior sharer falling in arrear, the principal sharer of the division to which the defaulter belongs may recover the amount, either by distraint or by prosecution in the Court of Justice, on the grounds of the *putwarree's* accounts, and of ancient usage, which entitles the principal sharers to collect the revenue from the inferior sharers. In the event, however, of a principal sharer falling in arrear, the case is different. These sharers, having always paid the revenue of their respective divisions separately, never interfere in the payments made by each other. The payment of an arrear due from a principal sharer under the former Government was always enforced separately upon the defaulter, without the intervention of the other principal sharers, who, although jointly responsible with the defaulter for the revenue of the whole village, were, however, never called upon for the arrears until such time as it was found impracticable to recover the amount from the sharer actually in default. Under the British Government, when any of the principal sharers fall in balance, the process is issued against all those sharers jointly who have signed the *kaboolieut*, and the amount is recovered by an indiscriminate attachment of all their property. Although this process, under the terms of the *kaboolieut*, cannot be considered as unjust, yet certainly it may operate oppressively, so long as no clearly defined mode of proceeding is established, according to which the principal sharers can come upon each other in cases of failure. The *putwarees'* accounts specify the amount of revenue payable by each of the principal sharers; but it is doubtful, in my opinion, whether that record would be grounds sufficient to authorize one principal sharer to proceed against another for any balance due from him, usage, in opposition to such a measure.

30. With the view of remedying this defect, two modes occur to me: either to constitute one sharer a manager on the part of

the whole village, who shall sign the *kaboolieut*, and take engagements from the other sharers, or, to continue the present system of taking the *kaboolieut* under the signatures of all the principal sharers, and direct those sharers to enter into a joint bond with each other, specifying the different sums to be paid by each on account of the *jumma* of Government.

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31. To the first mode, several obstacles occur. From the state of equality in which the principal sharers consider themselves with regard to each other, it may be doubtful whether the measure would be found practicable, and, whether they would consent to appoint a manager, and pay their revenue through one of their own brethren. It might likewise deserve consideration, as a matter of expediency, whether the public revenue would be as secure whilst one sharer only entered into engagements with Government, as when several became jointly responsible.

32. The second mode appears to me as the most eligible. But some difficulty may also arise in carrying that plan into effect. As the measure is entirely new, the principal sharers may be disinclined to execute a joint bond of the description above-mentioned, and it will no doubt require a considerable lapse of time before such a measure can be generally introduced throughout the district. Another difficulty which operates in both the plans above suggested, but chiefly in the latter, is the reluctance manifested by the principal sharers to proceed against each other for arrears, and which originates from the former mode of paying their revenue always separately. The sharers consider it as a hardship to be compelled, in the first instance, to pay a balance due from one of their brethren, and to prosecute in a Court of Justice in a case in which they have always conceived they had little or no concern. Even deeming a bond of the above description as unnecessary, and declaring the *putwarses'* accounts as grounds sufficient for a prosecution, the same reluctance, arising from ancient usage, will still remain as an obstacle to be removed. I have frequently, in cases of the above nature, pointed out to the principal sharers the necessity of applying for redress against defaulting sharers in the Court of Justice, but they have seldom or never had recourse to the measure recommended.

33. In the different settlements of this district which I have hitherto concluded, I have not deemed it advisable to deviate from the former mode of taking engagements under the joint signatures of the principal sharers of each village ; but I have often experienced considerable difficulty in making the collections from the circumstances before mentioned. This subject, in my opinion, deserves the careful attention of the Board, not only with the view of securing the public revenue, but also of preventing oppression from being exercised upon the industrious sharers of an estate.

34. The mode of selling lands for the liquidation of arrears of revenue is also connected with the subject of the *zemindaree* tenures and the rights of individuals ; and where so many sharers pay their revenue under one *pottah*, that measure, in my opinion, demands the consideration of the Board previously to its being carried into execution in Bundelkhund. Hitherto, no lands have been sold for the recovery of arrears of revenue in this Province.

35. A great portion of this district is cultivated by *pykasht ryots* ; the proportion may be estimated at one-fourth at least of the whole cultivation. This circumstance is an indication of the want of population, of the unequal distribution of the inhabitants, and of the impoverished condition of many of the *zemindars*, whose means are not sufficient to enable them to cultivate their own lands. It may frequently be observed, even in those parts of the country best cultivated, that in two adjacent villages, many of the inhabitants mutually cultivate as *pykasht ryots*. This arises from the sub-divisions of property, and the different degrees of wealth possessed by the different sharers of both villages. If a sharer in one of those villages is possessed of sufficient funds, he will cultivate the good lands of a sharer in the other village, who has not funds for the purpose, in preference to cultivating his own lands, which are worse ; and these bad lands, on the other hand, he will leave to be cultivated as *pykasht* by any of the sharers of the other village whose shares may have been completely cultivated. The same course will be pursued by a sharer in the other village. In this manner, the inhabitants of both villages may, to a considerable extent, interchange their labours, but this interchange is always between different sharers, the same two sharers never interchanging their cultivation, as

this would evidently be a loss to one of the parties. It may be necessary to add, that the sharers of the same village always employ *pylasht ryots* from a different village in preference to employing any of their own brethren, of whom they are always apprehensive as likely to usurp their proprietary rights, founded on the circumstance of cultivating the lands. The revenue, so far as it depends on such a system of cultivation, is, no doubt, in some degree precarious, but, as no *zemundar* will employ *pylasht ryots* if he himself possesses the means of cultivating his lands, it may confidently be expected that, as the country improves, and the *zemundars* become generally wealthy, this system will gradually be superseded.

36 The same system of *pylasht* cultivation which prevails in the interior of the district, also takes place between the villages in the British possessions and those in the foreign territory on the frontier, and in such cases, when disputes occur between those *ryots* and the *zemundars*, it becomes a matter of difficulty to realize the revenue from the obstacles which the *zemundars* experience in recovering their rents.

37 There are few villages in this Province, some of the proprietors of which are not forthcoming. Those villages entirely without *zemundars*, if in the vicinity of a large village, are generally cultivated by the *zemundars* of that village, who farm the lands from Government.

38. The manufactures in this Province are very inconsiderable. Coarse cloths, calculated for the consumption of the lower classes of the inhabitants, are manufactured generally throughout the district. At Calpee a considerable quantity of coarse cloths, the manufacture of the Company's possessions and of the foreign territory in the vicinity of that place, are printed, and thence exported into the Doab. Paper is manufactured at Calpee, also refined sugar, but the raw sugar from which that manufacture is prepared is generally imported from the adjoining districts in the Doab. Formerly, considerable quantities of *Khaorieth* cloths of a very excellent quality was manufactured in the western parts of this district, but from the unsettled state of that quarter of the Province for some years past, that manufacture has been transferred to Jhansi and the country in that neighbourhood.

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39. Saltpetre may be obtained in a considerable quantity in several *pergunnahs* on the banks of the Jumna, should Government think proper to establish the manufacture of that article in this district.

40. The roads throughout this district are generally in so bad a condition as almost entirely to exclude the use of wheeled carriage. The improvement of the communication would therefore be a measure of great benefit to the country at large. Previously, however, to the commencement of an undertaking of such magnitude and expense, it would be necessary to obtain the fullest information on the subject in order that the object of Government should be properly carried into effect, and the measure placed upon an advantageous and permanent footing. During the season of the rains, all communication is greatly limited; and the transportation of merchandise at that period is rendered totally impracticable. The rapidity of the numerous *nullahs*, and the loose nature of the soil, appear to me to oppose almost insuperable obstacles to the opening of the communication at that season of the year; but this circumstance may be of less importance, as the produce of the country is gathered and exported at other seasons, and various other causes tend to diminish commercial intercourse and to render communication less necessary during the rains. From the vicinity of the *ghauts* and bad state of the roads in the foreign territory on the frontier, it may be impracticable ever to substitute wheeled carriages in the transportation of articles intended for exportation to those countries. Likewise, as there is no mart of importance in this district, all articles brought from those countries for exportation must also be conveyed through the district on carriage cattle, in the same manner as imported.

The improvement of the roads, therefore, although it would certainly afford some degree of facility to foreign commerce, would, however, be chiefly confined in its advantages to the internal commerce of the district, and to the traffic carried on in the produce of the district between this *zillah* and the other possessions of the Company in the neighbourhood. The progress of troops through the district would also be greatly facilitated by the improvement of the roads. In considering the most advisable plan for carrying this

measure into effect, it appears to me that the repair of all the principal roads of communication ought to be undertaken by the Government. A general contribution, levied upon the *zemindars* for that purpose would not, in my opinion, operate equitably. The *zemindars*, from the situation of their villages, must derive very different degrees of benefit from the measure. The repair of the cross roads communicating with the different villages might, however, be very justly imposed upon the *zemindars*. At the same time, it would be necessary to limit this imposition, and with that view it might be advisable to give the *zemindars* the option either of repairing the roads within their respective villages themselves, or of paying a tax to Government, amounting to 1 per cent. on their annual *jumma*, to be expended in those repairs.

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41. This district being now in a situation of perfect tranquillity, it may be expected that the roads will be more generally frequented by merchants than for several years past, during which, from the unsettled state of the country, the communication has been rendered extremely hazardous.

42. Although the Province of Bundelkhund is intersected by several rivers which communicate with the Jumna, and which are navigable to a considerable extent during the rains, yet no traffic is carried on by water. This is, of course, in a great degree occasioned by the limited intercourse hitherto established on the River Jumna.

43. With regard to the navigation of the Jumna, from the best information which I have been able to obtain upon the subject, there is no obstacle of importance to the passage of boats of considerable size, so far as that river extends on the frontier of this *zillah*. Some little difficulty, I have understood, is occasioned in tacking against the stream, by the abrupt height of the banks at some places, and their being intersected by deep ravines; but these obstacles are not of such magnitude as to check the navigation in any material degree. The navigation upon the River Jumna is, however, at present very inconsiderable. The establishment of commercial towns and depôts in its vicinity, from which alone all trade upon that river can arise, must of course require a considerable lapse of time, and

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be concomitant with the opening of the navigation. With the exception of Calpee, which has fallen into great decay, there is no town in this district upon the banks of the Jumna which comes under the description of a commercial depôt. When at Calpee, during my progress through the district, I availed myself of the opportunity of inquiring into the cause why the cotton-dealers preferred conveying their merchandize to Mirzapore by the circuitous route of Cawnpore, instead of by the way of the Jumna, which appeared to me to be both cheaper and more expeditious. The general answer I received was, that they were deterred from the undertaking by the apprehension of insecurity from plunder. Several of the traders at the same time suggested, that if Government would, for a short period of time, afford the protection of a guard to a few boats on the commencement of the undertaking, all the merchants would speedily gain confidence in the safety of the navigation, and the route of communication by the Jumna would soon become general. This apprehension, however groundless, certainly does in some degree still exist in the minds of the merchants, and I therefore conceive that the measure above suggested for the purpose of removing such an opinion is worthy of the consideration of the Board. The want of proper boats would soon be supplied, either from Cawnpore or Allahabad; and the town of Calpee becoming a general depôt for cotton and other merchandize, as well from the Mahratta territory as from the western portion of the Company's possessions in this district, would rapidly increase in prosperity and population.

44. The Board of Commissioners having recommended to Government the abolition of the Government customs and town duties in this district, it may be unnecessary to make any observations on the present system of making those collections. The abolition of the town duties no doubt removes a tax vexatious in its nature, and in some degree prejudicial to manufactures. With respect to the abolition of customs, the expediency of that measure must of course depend upon the general arrangements made in that department by Government.

45. I shall now proceed to the consideration of a permanent settlement.

46. The public revenue has hitherto been assessed upon the actual produce of the land, and has consequently always varied in proportion to the variations of the produce. It is now proposed to fix the revenue in perpetuity, by which measure the original basis is in fact relinquished, and the land becomes the foundation on which the assessment is to be established.

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47. A tax upon land differs considerably from a tax upon capital of any other description, inasmuch as the extent and capacity of the land, which must form the basis of the assessment, cannot be varied in conformity to the means of the proprietor. Land remains the same in these respects whether its powers be actually called forth or not. This circumstance, in my opinion, renders land an unfit object for taxation, however eligible it may be to tax the produce of land. Several observations might also be suggested for consideration with regard to the effects of fixing in perpetuity a tax of such magnitude upon the land, and which formerly fluctuated with the produce. But these observations might be deemed as foreign to the subject of this address.

48. The Board of Commissioners having particularly directed my attention to equality in considering the expediency of a permanent settlement, I take the liberty of offering several observations on that subject for their consideration.

49. The heavier any tax is the greater is the necessity of equality in its assessment. The inequality of a very low tax upon land may be of trivial importance, but if the same inequality of the tax be increased, may totally subvert the natural order of the value of all landed property. Considering, therefore, the magnitude of the tax now proposed to be assessed in perpetuity upon the land, justice as well as policy demand that the greatest possible attention be paid in concluding the settlement so as to render the assessment equal upon each estate.

50. A tax upon land must be proportioned according to a fixed valuation formed upon the extent and agricultural powers of the land composing each estate. No other basis for the equality of the permanent settlement appears to me to be possible.

51. The actual produce, without reference to the capacity of the lands, can form no just foundation for an accurate valuation of each estate. One estate may be better cultivated than another; and all estates may be cultivated much below their agricultural powers.

52. But, although a valuation of each estate, formed upon the extent and capacity of the lands as before mentioned, be, in my opinion, the only basis for an equal assessment in perpetuity upon the land, yet, from the magnitude of the tax to be assessed, difficulties would arise in carrying such a measure generally into effect. For, admitting such a valuation to be accomplished, unless all estates were actually brought into complete cultivation, the proprietors would not possess the means of paying the amount of the tax which on this principle would be assessed upon their lands.

53. This circumstance necessarily confines the present assessment to a valuation of the actual produce at the period of the formation of the settlement, and precludes the possibility of effecting an equal assessment in perpetuity upon the land, according to the established proportion of the tax to a just valuation, until such time as each estate shall be cultivated to the extent of its agricultural powers.

54. It may almost be unnecessary to state the numerous evils which might arise from a permanent assessment founded on a valuation of the actual produce without reference to the extent and capacity of the lands. Such an assessment must not only be originally unequal with reference to the lands, but the progress of every season must render it unequal with reference to the produce also; and in the course of a short period of time it must possess no vestige of equality in any respect whatever. It might change the value of all landed property and reduce the proprietor of a large estate to a worse condition than the proprietor of a small one. It would, in fact, establish a permanent monopoly in favour of those who possess waste lands at the time of the settlement, to the discouragement of those whose lands might at that period be completely cultivated, and, although it might thus give a partial stimulus to industry, it would neither afford the means of increasing the

revenue in proportion to that improvement, nor operate as a measure of general and permanent policy, so as to benefit the country at large, and render the public revenue secure.

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55. From the preceding part of this report, the Board will observe, that the lands in this Province are very unequal, and that in general they are cultivated much below their capacity. Under these circumstances, and for the reasons which are stated above, I am decidedly of opinion, that a temporary settlement is the only mode of assessment which can at present be carried into effect with a due attention to the rights of individuals, and the interests of Government. One of the principal objects of the Board, previously to fixing the revenue in perpetuity, being to call forth the resources of the country in order to obtain an abundant revenue, the adoption of a temporary settlement with this view also becomes necessary, nor does it appear to me that, under that system of assessment, any apprehension whatever need be entertained that the country will not gradually improve and increase in prosperity.

56. An assessment upon the land for a limited term of years, founded on a valuation of the actual produce, approaches very nearly to an assessment upon the produce which of course must be annual.

57. An assessment of this nature is doubtless subject to inequality, but that inequality from the circumstance of its being temporary, does not affect the permanent value of landed property. At the close of every term, the disproportions of the assessment to the actual produce may be rectified; and the amount of the revenue may thus be augmented, whilst equality is preserved in its allotment. As a high tax, if equal, is by no means so oppressive as a tax much lower if unequal, so a temporary settlement, by maintaining equality, tends to preserve the source of the revenue unimpaired.

58. Exclusive of general encouragement to agriculture to be derived from equality under this system, I conceive a moderate assessment will always afford inducement sufficient to stimulate *zemindars* to increase the cultivation of their lands, in the same manner as it has hitherto invariably done wherever moderation was attended to under the former Government. When the *zemindars*

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have funds in their possession, they never employ those funds otherwise than in the increased improvement of their lands. They derive a profit from this increase, and that profit is sufficient to reward their labour, and excite them to industry. As an additional encouragement, however, to those who may be in possession of waste lands, Government may relinquish for a time their demand for an increase of revenue by lengthening the term of the settlement upon the original conditions, although a very long settlement of this nature might operate in some degree to the disadvantage of those whose lands are completely cultivated at the period of its formation.

59. I am far from conceiving that the *zemindars* are ever deterred from improving their lands by an opinion that after the expiration of their lease they will be ejected from their estates. I am confident that such an idea never comes into the contemplation of a *zemindar* in this province. Although villages have frequently been let in farm, yet the *zemindars*, who are actually the cultivators of the soil, have never been dispossessed, and the farmer has always collected the rents from the *zemindars* according to the rates of the village as established by ancient usage. If a *zemindar* shall refuse to pay the just amount assessed upon this land by Government, let him be punished—either by farming his estate, or in any other mode Government shall think fit, but let there be no competition for the possession of the lands. Such a measure is, in my opinion, a direct infraction of proprietary right. When a *zemindar* is assured that he will retain possession of his lands on paying an equitable *jumma* he will cultivate in security in proportion to the reliance he places on the justice of the Government.

60. Under the system of a temporary settlement, the security of the revenue appears to me to be perfectly well provided for. In addition to the security arising from equality in the assessment, the lands are not depreciated in value, and consequently may always be disposed of for the amount of any arrear which may be due, when it becomes necessary to have recourse to such a measure. This is not always the case under a permanent settlement.

61. Whatever system of assessment is advantageous to a whole village collectively must be equally advantageous to the different

sharers in the same village, respectively, provided that justice be secured to each individual sharer. It is evident, from the nature of the *zemindaree* tenures in this Province, that in whatever manner the assessment upon a whole village be concluded, its effects may in a great degree be frustrated by the interior arrangements of the sharers. A permanent settlement upon a whole village can never fix permanently the amount to be paid by each sharer, respectively, nor can a moderate assessment ensure many of the sharers from oppression. I have already noticed this subject in a former part of this report, and previously to the conclusion of a permanent settlement, it appears to me to demand the serious consideration of the Board of Commissioners.

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62. Great care and attention ought likewise, in my opinion, to be paid with regard to those persons with whom the settlement is concluded. And, as Government look for the payment of the revenue to the *zemindars* who execute the engagements, those *zemindars* should have the means of ensuring the collections from each other, and from their inferior sharers and brethren.

63. From the precarious nature of the *pykasht* cultivation, and the great proportion which that system bears to the general cultivation of the country, it appears to me that this circumstance also is an objection to the immediate conclusion of a permanent settlement.

64. I have already stated, that, under existing circumstances, I conceive it impracticable to make an equal and advantageous settlement in perpetuity of the whole district generally; but should the Board of Commissioners deem it expedient to postpone the permanent settlement until such time as the country shall have been brought into a better and more equal state of cultivation, it appears to me that it would be advisable to introduce that system by degrees. I, therefore, take the liberty of suggesting that in this case, instead of making the permanent settlement of the whole district at one period of time, a settlement be made with reference to the actual state of the cultivation of each village separately; that such villages as may have been brought into a state of

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complete cultivation be assessed in perpetuity, and that all other villages remain under a temporary settlement, until such time as from gradual improvement, they shall have arrived at that state of cultivation when a permanent settlement can be properly carried into effect. Also, that until the permanent settlement shall have thus been extended over the whole district, the Collector shall, either annually, or at the close of each temporary settlement, furnish the Board with a statement in detail of those villages which, from their increased cultivation, he would recommend to be assessed in perpetuity. By this means, it appears to me that the permanent settlement may ultimately be extended over the whole district, with much greater justice to the proprietors of the land, and with much more advantage to the revenues of Government, than by forming a perpetual settlement of the whole country under existing circumstances at the same period of time.

65. With regard to the documents in my possession to enable me to form a just and equitable assessment of the lands, as such documents relate merely to the actual produce of the lands, without reference to their capacity of improvement, they are, of course, very insufficient grounds on which to establish a settlement in perpetuity. Nor are they even very satisfactory for the purpose of a temporary settlement. I have omitted no exertion to obtain from the *canoongos* and other public officers, the most authentic papers relative to the former revenue collected from the country; but the irregular mode observed in making the collections under the native Government, and the little interference of the *canoongos* in the management of many portions of the district, preclude the possibility of obtaining any documents which can with safety be relied upon as accurate. In the course of the different settlements of this district which I have hitherto concluded, I have founded my proceedings principally upon the *douls* or estimates of the revenue funds, delivered in by the *tehseeldars*, together with such other local information as I could obtain upon the spot relative to the actual assets of the lands. The *kutchas* papers, or village accounts, which I likewise directed to be delivered into this office, are equally, unsatisfactory; and, from the nature of the tenures in this Province, those papers contain little else than the distribution of the *jumma* among the different sharers

agreeably to the *bhyachara* measurement of the lands, together with the village expenses borne by all the sharers generally.

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66. The observations of the Board, with respect to the settlements of four years, have reference to the rules laid down in the regulations relative to the districts in the *Doab*. The district of Bundelkhund, and particularly that portion of it which compose the *zydad* of the late *Rajah* Himmud Bahadoor, have been under the authority of the British Government during a very short period of time; and,—agreeably to Section 6, Regulation IX., 1805, two successive temporary settlements, each for a term of three years, remain to be concluded in this territory previously to the expiration of the period of ten years, at the close of which it is declared that the permanent settlement shall take place. I take the liberty, however, of observing, that it does not appear to me that a *russudee*, or increasing *jumma* can safely be extended beyond a period of three years, and that increase, I conceive, should be extremely moderate unless an abatement from calamity of season, or, other temporary cause, shall have been rendered necessary in the *jumma* of the first year of the settlement, which can be added to the *jumma* of the second year without the risk of its becoming oppressive to the *zemindars*.

[ENCLOSURE A.]

Extract of a letter from the Collector, Zillah Bundelkhund, addressed to the Board of Revenue, under date 10th of July, 1807.

Paragraph 11.—There are many points relating to the settlement, and the realization of the public revenue, so intimately connected with the nature of the *zemindaree* tenures, that I must beg the indulgence of the Board in submitting for their consideration the following observations on that important subject:—

12. The proprietors of a village in this Province hold their lands by hereditary succession. They consist of a number of brethren or sharers, each cultivating a distinct portion of land, and contributing proportionably to the *jumma* assessed upon

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the whole village. The sharers are divided into classes termed *behree*, each of which is superintended by a head *zemindar* styled a *behreewar*. The *behreewar* is generally the head of the family of which the *behree* or division is composed. The *behreewar* collects the revenue from his inferior sharers or *assamees*, and conducts all the business of the *behree*. Large villages are commonly divided into *thokes* or *puttees*, each of which consists of a certain number of *behrees*; and the *behreewars* are thence sometimes styled *thokedars*. The appellation of *mokhtâ* is applied to those *behreewars* who attend the officers of Government, and execute the engagements for the revenue. All the *behreewars* may attend for that purpose, though frequently one only is deputed on the part of each *puttee*. The *jumma* of Government being assessed upon the whole village jointly, it becomes necessary for the sharers to allot among themselves the particular portions of the *jumma* for which each sharer shall be deemed responsible. This allotment is founded on the quantity of land, which the sharers may respectively possess, in a state of cultivation. The quality of the land is not taken into computation of the assessment; for, as each sharer has a proportionate quantity of land of each description originally assigned to him, all the sharers are considered as uniform in respect to quality. In some villages, where there are particular portions of land of a particular description which do not admit of being sub-divided among the sharers, those lands are termed *muzcoory* lands, and are held in common, and cultivated for the general benefit of all the sharers, by *pykash* *ryots*, or by the village *ryots*. The cultivation of the lands of each sharer is ascertained by actual measurements. The measurement is not made according to the regular standard *beegah*, but agreeably to a certain proportion called the *beegah bhyachara*, which is adopted exclusively for that purpose among the brethren, and the extent of which varies in every village. This deviation from the standard measure has probably been resorted to not only for the purpose of facilitating the computation, but also with the view of precluding the Government from obtaining an accurate knowledge of the quantity of cultivation comprised in the village. The number of *bhyachara beegahs* in possession of each sharer being thus ascertained, they are recorded in the accounts of the *putwarees*, and the allotment of the *jumma* is proportioned ac-

cordingly on each sharer. The *bhyachara* measurement of the lands is not made annually. The sharers seem to consider that an annual measurement is not only unnecessary, but that its operation would be vexatious; nor can any specific period of time be limited for the continuance of the proportions thus established, as a measure of that nature would be incompatible with the general principle of the cultivation being at all times subject to a fresh measurement for the purpose of equalizing the assessment. The term of the assessment upon each sharer remains therefore undefined, and its continuance depends entirely upon the concurrence of all the sharers. So long as the sharers consider the allotments as fair and equitable no alteration is ever made in the assessment; but when any inequality is produced, either from the increase or decrease of the cultivation, the sharers have recourse to a fresh *bhyachara* measurement of the village, for the purpose of correcting the proportions and making a more equitable distribution of the *jumma*. Although many important advantages are to be derived from this measure when duly carried into effect, yet, as this circumstance depends, in a great degree, upon the arbitrary discretion of the leading *zemindars* in the village, a system of this nature not only proves a frequent source of contention among the sharers, but is also subject to very great abuse. Under the administration of the Native Government, in all cases of dispute between the sharers with regard to assessment, the *amil* interposed his authority, and compelled the sharers to make a fresh *bhyachara* measurement of the village, and thus to render justice to each other by apportioning the allotments of the revenue according to a fair and equitable rule. With regard to the responsibility of the sharers, it is a general principle, admitted by all the brethren, and which was uniformly enforced by the Native Government, that the whole village is jointly responsible for the whole revenue. Each sharer is, in the first instance, responsible for the payment of his proportion of the *jumma* agreeably to the allotment upon his share. The sharers are, in the next place, jointly responsible for the aggregate allotment on their respective *behrees*, and the *behrees* are jointly responsible for the whole revenue assessed upon the village. If, therefore, an *assamee*, or inferior sharer, shall fall in arrear of revenue, and the amount be not recoverable by the sale of his personal property or the transfer of his lands, the *behree*-

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war allots the balance proportionably on the other sharers in the *behree*, and collects the amount from them accordingly, he himself likewise paying his proportion of the arrear. With regard to the joint responsibility of the *behrees*, it is necessary to observe, that the *behreewars* always pay the proportions of the revenue allotted on their respective *behrees* separately, and that, in the event of any *behreewar* falling in arrear, the other *behreewars* never consider it incumbent upon them to discharge the amount until such time as the defaulting *behreewar* and his brethren shall have been compelled to dispose of their property, and ultimately to relinquish their lands. Under the Native Government, the defaulter usually fled from the village when pressed to pay a balance which he found a difficulty in discharging, and the liquidation of the arrear by the remaining *behrees* consequently became a matter of absolute necessity. In cases where the *behreewars* are apprehensive of the lands becoming waste, as that circumstance would, of course, occasion a general loss to all the sharers, they are sometimes induced by self-interest to make a compromise with the sharers in default, and to pay a small balance on their account, with the view of giving them encouragement to remain and continue the cultivation of their lands. If the *behreewars* act with justice towards each other, a balance of revenue can seldom occur in a *behree*, for a *behreewar* is generally enabled to adjust any existing balance for the current year, and he is entitled to an abatement for the ensuing year by obtaining a fresh *bhyachara* measurement of the village. Lands transferred for the payment of balances are generally resumable under certain conditions, on the defaulter obtaining the means of redeeming them. In the event of a sharer absconding, he may likewise redeem his lands on his return, on fulfilling the conditions prescribed by the usages of the country. The revenues of Government are always paid through the medium of the *behreewars* or *mokhias*, and exclusive of the *jumma*, with the addition of the village expenses, which are allotted in the same manner as the *jumma*; the *mokhias* are not entitled to make any further demands upon their brethren or inferior sharers.

13. The above observations, with regard to the distribution of the *jumma* relate to a village as held under a *pukka* engagement

with Government. In the event of the *mokhtas* declining to enter into engagements for the revenue, and of the village being let in farm, the *bhyachara* measurement becomes void, and the whole village is considered as *kutchra* or *kham* under the management of the farmer. The farmer, accordingly, although he may have engaged for a fixed revenue with Government, collects the rents from the different sharers agreeably to the rates of the village as established by ancient usage.

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14. Under the tenures above described, the first object which appears for consideration is the expediency of regulating the interior arrangements of the village with regard to the allotment of the proportions of the revenue on the different sharers. So long as the sharers agree among themselves, all interference in their arrangements may certainly be deemed unnecessary; but in cases of injustice and oppression, arising from the continuance of an unequal assessment, the interposition of the authority of Government for the purpose of rectifying the abuse becomes, in my opinion, absolutely indispensable. It does not appear to me that the Courts of justice can afford the necessary redress on such occasions. I conceive that a distinct process is requisite for the purpose of adjusting the assessment according to the principles on which it ought invariably to be found. I therefore take the liberty of recommending that the Collector, on application for the purpose being made to him by any sharer, should be authorised to depute an *ameen* to make a fresh *bhyachara* measurement of the village, and to allot the *jumma* on the different sharers agreeably to the usages of the country. The measurement should be made in concert with all the sharers and their *putwarees*, and the *ameen* should be bound by oath faithfully to discharge the duty with which he is entrusted. The measurement of the *ameen* must be recorded in the *putwarees*' accounts, and agreeably to that record, the payments of the sharers must be regulated. The expense attending the deputation of the *ameen* must be defrayed by all the sharers jointly. The assessment on the shares must, of course, be only temporary, and have effect during the year only in which the measurement may take place, unless, however, the sharers should of their own accord, continue the allotments thus fixed, for a longer period of time. I am not aware of

any evil effects which can possibly result from the adoption of the measure which I have here ventured to suggest; on the contrary, it appears to me to afford effectual security and protection to all the sharers, and to preserve that equality of assessment among the brethren which, besides being just to individuals, must likewise operate in a manner beneficial to the cultivation of the country and advantageous to the revenues of Government.

15. The *mokhias*, or *behreewars*, having executed the *Kaboolieuts*, they are jointly and severally responsible to Government for the payment of the public revenue. In the event, therefore, of an arrear becoming due, the process for the recovery of the amount must be issued against all the *behreewars* jointly, leaving them at liberty to prosecute each other in the Court of *Adawlut*, on the grounds of the *bhyachara* assessment. Under the Native Government, however, the payments by the *behreewars* having always been made separately, the liquidation of every arrear was likewise separately enforced as before described, and it was in cases only of the total ruin of the party in default, that recourse was had to the other *behreewars* for any remaining balance. From these circumstances, it will be extremely difficult to induce the *behreewars* to discharge balances on account of each other, even although they may be empowered to recover the amount by a suit in the Court of Justice. In the course of making the collections, I have experienced much difficulty in realizing balances of this nature. Probably, the difficulty will be removed as the *zemindars* become acquainted with the Regulations of the British Government. It may not be unnecessary to observe, that, as each sharer is the actual proprietor of the lands for which he pays revenues, a law process at the instance of a sharer, for the recovery of an arrear, must eventually render the defaulter's lands liable to sale in satisfaction of the decree of the Court. Such lands, however, must be sold as the undivided portion of an estate, and must not be separated from the lands of the village, but remain annexed to them, and be subject to the proportional assessment of the *jumma* in the same manner as previously to the sale.

16. It is, of course, extremely desirable to obviate, as much as possible, the necessity of resorting to the sale of lands by Govern-

ment for the recovery of arrears of revenue, particularly where so many sharers pay their revenue under one *pottah*. But, when such a necessity does occur, I conceive that, from the nature of the joint responsibility of all the sharers, the whole village must be rendered subject to public sale for the liquidation of the arrears.

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17 The Regulations of Government prescribe that all persons who may enter into engagements with Government for the public revenue shall bind themselves to grant *pottahs* to their under renters and *ryots*. In the course of the present settlement, I have accordingly taken engagements to that effect from the *mokhias*. It will be obvious, however, from the relative situation in which the different sharers stand to each other, that no agreements of this nature have ever been entered into between the *mokhias* and their brethren, and indeed, that such *pottahs* would be in some measure incompatible with the rights of the sharers. It must likewise be taken into consideration, that admitting it to be practicable to induce the inferior sharers to take *pottahs* from the *behereewars*, such *pottahs* must be founded on the *bhyachara* measurement, and must be considered as valid no longer than whilst the measurement on which they are founded shall continue without alteration and, as that period is undefined, the term of the *pottah* must be undefined also. The payments of all the sharers must at present be regulated by the *puttarees'* accounts, and the Court of Justice must likewise be guided in all its decisions on such cases by the allotments as specified in that record. The sharers usually grant *pottahs* to the *ryots* within their respective shares, and I believe it is their invariable practice to grant *pottahs* to the *pylasht ryots*.

18 Previous to the cutting of the crops, the *mokhias*, agreeably to former usage, give separate security for the proportion of the revenue payable from the crops of their respective *beherees*. This measure is essential towards the realization of the revenues in this Province, as it is a common practice, however, either forcibly or clandestinely, to carry off the crops under the attachment of sharers, and, as the want of some rule of punishment in such cases is daily experienced, I take the liberty of recommending that the same penalties as those prescribed with regard to the illegal removal of crops

under distraint be extended to the carrying off of crops under the charge of sharers, previously to the prescribed security for the revenue being given by the *zemindars*.

19. I have before stated that, exclusive of the *jumma* of Government, with the addition of the village expenses, the *mokhias* are not entitled to make any further demands upon their brethren; this observation, however, is only applicable to the *jumma* as formed under the Native Government, in which were included the *nankar* and *chakeree* of the *mokhias*, or *behrecwars*, and the *puchotra* of all the brethren or *assamees*. The *puchotra* having been a proportionate deduction of five per cent., allowed in the payments of all the sharers, they all, of course, derive the same advantage now as heretofore, by the deduction of that allowance from the gross *jumma*; but with respect to the *nankar* or *chakeree*, which is likewise deducted from the gross *jumma*, as that allowance was paid to the *mokhias* only. It now becomes necessary, in order to secure the *mokhias* in their rights, to authorize them to collect the *nankar* from the different sharers in addition to the net *jumma* of Government.

(A true Extract.)

(Sd.) J. D. ERSKINE,
Collector.

[ENCLOSURE B.]

Extract of a letter from the Board of Revenue addressed to the Governor-General in Council, under date 11th August, 1807.

Paragraph 4.—In regard to the circumstances stated by the Collector, respecting the rules which at present obtain regarding the payment of the revenue by the different sharers in an estate, we doubt whether the proposed interference on the part of the Collector would be either advisable or practicable. The entire estate is, of course, responsible for the payment of the revenue assessed upon it at large, and we conceive that the Courts of Justice will afford the sharers ample means for protecting their particular interests in

the estate. The case in which the Collector proposes to interfere with his authority is to make a measurement and new distribution of the shares, where it may appear that one or more of the sharers are in possession of a larger quantity or of a better description of land than they are entitled to, with reference to the portion of the *suddér jumma* payable by them. It is stated by the Collector that, in similar cases under the former Government, the above measure was had recourse to by the *amil*, but it appears to us that, according to the general spirit of the Regulations of our Government, the sharers, when they may have cause of complaint on the above grounds, must have recourse to the Courts of Justice for redress.

5. On the subject of the 18th paragraph of the Collector's letter, we apprehend that he has not adverted to the rule prescribed in the twelfth clause, Section 2, Regulation XXVII., 1803, which prohibits the stationing of watchmen on the crops, in case the parties shall give security for revenue payable from the crop. We propose to point out that rule to him. With respect to the proposition of prescribing any specific punishment for persons who may clandestinely carry off crops under the attachment of *shaenas* or watchmen, we doubt whether there is any necessity for laying down any particular rule for that purpose, as we conceive that the Courts, on any person being proved to have committed such an offence, have ample means of punishment under the general powers vested in them.

6. With respect to the circumstances stated in the 19th paragraph of the Collector's letter, it occurs to us that the question contained in it has reference to the internal arrangements, which we conceive the sharers themselves ought to be left to adjust, and we should therefore recommend the Collector's not interfering in the business. The advantage stated to have been formerly derived under the head of *nankar* by the *mokhtas*, or head sharers, with whom the settlement has been concluded, will, we conceive, be now provided for by them, with the consent of their brethren in the distribution of the revenue payable by each.

(True Extract.)

(Sd.) J. D. ERSKINE,
Collector.

[ENCLOSURE C.]

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Extract of a letter from the Secretary to the Government in the Revenue and Judicial Department, dated 28th August, 1807, Cons. 1st September, 1807.

Paragraph 7.—The Governor-General in Council concurs generally in the sentiments expressed in the 4th, 5th, and 6th paragraphs of your letter; and you are desired to furnish the Collector with the necessary instructions accordingly.

(True Extract.)

(Sd.) R. THACKERAY,
Secretary.

No. III.

CIRCULAR FROM THE BOARD OF COMMISSIONERS, IN THE CEDED
AND CONQUERED PROVINCES, TO ALL COLLECTORS,—DATED
THE 23RD MARCH, 1808.

No. III.—
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SIR,—The Governor-General in Council having it in contemplation to provide for the separation of the village *zemindars* from the authority of the persons through whom they have been accustomed to pay their revenue, but who possess no substantial right and interest in the soil of such village *zemindarees*, I am directed to desire that you will report the nature of the tenures of the several classes of persons (who are not avowedly mere officers of Government) at present employed in the collection of the public revenue, whether under the denomination of *rajah*, *talookdar*, *zemindar*, *mocuddum*, or any other appellation.

2. The principal points which it will be necessary to ascertain appear to be—1st, whether the proprietary right claimed by such village *zemindars* is founded on written documents or solely on usage and prescription; 2nd—whether the right and interest claimed by them in the soil are admitted or denied by the superior landholders through whom or to whom they now pay their rents; 3rd—at what period and under what circumstances such village *zemindarees* were originally incorporated in the *talooks* to which they are now appendent; and 4th—on what grounds, whether of written documents or otherwise, the superior landholders claim the right of property in the soil of such of these dependent *zemindarees* as they may not admit to be vested in the several *zemindars*.

3. It is not intended that the research into the nature of these tenures should be directed to a strict investigation of individual claims, as the Board conceive that all requisite information may be obtained by general inquiries from the *canoongos* and other persons acquainted with the local usages and customs of the country.

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MORADABAD.

I.—*From C. LLOYD, ESQ., Collector of Moradabad, to SECRETARY TO THE BOARD OF COMMISSIONERS, Goruckpore, dated 23rd May, 1808.*

SIR,—I have to acknowledge the receipt of your letter, dated the 23rd March last, and to report to you in reply for the information of the Board of Commissioners, that as far as my inquiries have been made, as well at present as at former periods, confirmed also by the communications which I have had with my predecessor, Mr. Leicester, I may venture to say that *talookdars* of the nature described by you do not exist in this district. Should, however, contrary to my expectations, any claims be made by individuals, they shall, of course, be submitted for the consideration of the Boards.

II — From C. DUMBLETON, Esq, *Collector of Carnpore, to SECRETARY TO THE BOARD OF COMMISSIONERS, Allahabad, dated Camp Bithoor, 11th April, 1808*

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SIR,—I have the honor to acknowledge the receipt of your letter of the 23rd ultimo

2 The report required by the Board being of a general nature, I believe, I am enabled to reply to your letter without any reference to the *canoongos*, whose statements on the subject I have found from experience are not to be depended upon, as with the view of obtaining correct information of the actual proprietors of the soil, I called upon the *tehsseeldars* two years ago to forward statements of the proprietors of each separate village under the signature of the *canoongos* of their respective *pergunnahs*. They were so faulty, and in many instances so contradictory to the settlement book in the office, signed by Mr Welland, and so different from the *douls*, or estimates, given in by the *tehsseeldars* for the ensuing settlement, in which the proprietors' names were required to be recorded, that it is impossible to place any reliance on any one statement, added to which the *canoongos* have, in a variety of instances, recorded themselves, or some of their relations, as the actual proprietors of estates which I consider them to have no right to

3 The settlement of this district is a village settlement, the *jumma* being assessed on each *asulee* village, including the *dakhil* villages, but there are some instances in which there are more than one *asulee* village included in one engagement, and the settlement was originally concluded with proprietors, *mocuddums*, or persons in possession, and in general with people who had some claim to the estates, either from possession or right in the soil, but no extensive farms were granted to individuals, who were left to make their own terms with the *shikmee zemindars*, or *mocuddums*. There are, however, many instances in which persons engaged nominally for the revenues, while their securities were the actual persons whom managed the estates. This, however, has been opposed as far as possible, both in the last settlement and in the present one, by objecting to the security, and requiring the persons engaging to procure other, or relinquish the farm.

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4. There are also some instances of farmers engaging for a number of villages. Though each of them was assessed and engaged for separately, yet the whole formed a considerable *talooka*. The principal instance is that of *Thakoor Surroop Sing*, whose engagement in 1210, including his *zemindaree* estates and the farms and *furzee* villages, amounted to upwards of a *lakh* of rupees. In the settlement now forming little will remain to him beyond his own villages, the *zemindars* having engaged for many that were held in farm; and by being precluded, in consequence of his being *canoongo*, from becoming security, he will have no influence over the villages which he before held *furzee*.

5. The Board will be aware that for many years prior to the Cession the rights of individuals were little attended to by the *amils*, and whoever agreed to give the most was put in possession: and in general the *chowdries*, *canoongos*, and *mocuddums* were the persons who were looked to for the revenue, and who the proprietor was little concerned the *chuckladar* or the *amil*. Provided they got their revenue it signified little how or from whom; the proprietors were, consequently, in most instances out of possession, and many have been so long out of possession that their rights may be said no longer to exist.

6. To the first question in the second paragraph of your letter, whether the proprietary right claimed by the village *zemindars* is founded on written documents or solely on usage and prescription, I have to observe that they are generally founded on usage and prescription, from having engaged for the revenues of Government for a considerable period, particularly when the proprietary right in the soil is claimed by *mocuddums*; for though the term does not strictly imply a proprietor, yet many of them having been in possession for several generations, they must be considered the rightful owners.

7. The proprietary right claimed by the *chowdries* and *canoongos* and their relatives, is in many cases founded on actual possession, and in others on written *sunnuds*.

8. To the second question proposed, whether the right and interest claimed by the village *zemindars* in the soil are admitted

or denied by the superior landholders through whom they now pay their rent, I have to observe that where the proprietary right is claimed by the parties in possession, the right of any other person is positively denied.

9. On the third and fourth questions proposed, I have to observe that the only case of a superior landholder holding a very extensive *talooka* in proprietary right that I am aware of, is the *Rajah* of Sheorajpore, whose right is generally admitted. His estate was let in farm for the period of the first triennial settlement in separate engagements, and a settlement was made with him in 1213, when the estate became *huzoor tehseel*.

10. There are some others who claim the proprietary right to very large tracts of country: one instance is now before the Board—the case of *Rajah Bheem Singh*. These claims are founded on written documents, many of very ancient date; but the holders of many of them have not now, and probably never had, actual possession, and they appear to have been granted without any reference to the rights of the village *zemindar*, either through interest or for personal services performed.

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ETAWAH.

III.—From J. W LAING, ESQ., *Collector of Etawah*, to SECRETARY
TO THE BOARD OF COMMISSIONERS, *Goruckpore*, dated 9th June,
1808.

SIR,—I have the honor to acknowledge the receipt of your letter of the 23rd March last, desiring me to report the nature of the tenures of the several classes of persons who are not avowedly mere officers of Government, at present employed in the collection of the public revenue, whether under the denomination of *rajah*, *talookdar*, *zemindar*, *mocuddum*, or any other appellation.

2. *Rajah*, I understand to be a denomination involving no concern with the collection of the public revenue.

3. The designation *talookdar* appears to be applied in this district to all considerable *malgoozars* who have a property in the soil of any part of their tenure.

4. *Zemindar* signifies in this district, as all over the country, the proprietor of the soil.

5. *Mocuddum*, I understand to be merely the *jeth ryot*, or chief cultivator, of the village, who, from his precedence, is the medium of negotiation between the under-tenants and their landlord.

6. To the four particular queries contained in your letter, I have the honor to answer as follows.

1. Whether the proprietary right claimed by such village *zemindars* is founded on written documents or solely on usage and prescription?

The proprietary right claimed by village *zemindars* is sometimes founded on written documents, and sometimes on prescription solely.

2. Whether the right and interest claimed by them in the soil are admitted or denied by the superior landholder, through whom or to whom they now pay their rents?

The right in question is in some cases admitted and in some denied, by the superior landholders.

3. At what period and under what circumstances, such village *zemindars* were originally incorporated in the *talookas* to which they are now appendant?

4. On what ground, whether of written documents or otherwise, the superior landholders claim the right of property in the soil of such of their dependent *zemindarees* as they do not admit to be vested in the several *zemindars*.

The majority of these incorporations took place, I understand, during the *Naucab Wu-zeer's* possession of the country; generally in consequence of defalcation of revenue, against the recurrence of which the obtaining of engagements from a responsible person for a considerable district, was deemed the best security.

In virtue of written documents in some cases, of long hereditary prescriptive possession in a few, in others on the grounds of claims against the former possessor on account of security, but in the majority of cases: I believe, in virtue of actual and long established possession consequent on the exclusion of the former possessor on account of fiscal or political default, or to the latter abandoning their possessions from various reasons.

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ALLAHABAD.

IV.—From E. A. CUTHBERT, Esq., *Collector of Allahabad*, to SECRETARY TO THE BOARD OF COMMISSIONERS, dated Allahabad, the 17th May, 1808.

SIR,—Accompanying I have the honor to transmit to you the replies of sundry *canoongos* to the questions proposed to them respecting the tenures of the village *zemindars* and *talookdars*.

2. From these replies and the information I have been able to gain, it appears that the proprietary right to the soil rests in the village *zemindars*, the *talookdars* having acquired the possession of their estates by various modes.

3. Originally the *talookdars* held only their patrimonial estates, but being men of influence and wealth, the lands of the inferior proprietors passed into the hands of the former, who then obliged them to cultivate these lands under the denomination of *mocudums*, &c.

4. These *talookdars* have originated by the appendage of the minor estates, from sales, transfers, mortgages, trusts and gifts, or from the seizure of the properties of others under the authority of the *amil* in cases where the *talookdars* stood security for the revenues, where they paid up the balances, or engaged at higher terms than those consented to by the proprietors, or when their influence with the revenue officers enabled them to deprive the landholder of his estate.

5. Of the deeds, those of sale and mortgage were in some cases executed, the person transferring his estate having received cash or some equivalent; in other instances these were taken as a security bond, and at times by force, the proprietor executing them without receiving any remuneration.

6. The deeds of gift, it is presumable, were exacted under similar circumstances.

7. Many of these deeds are of a long date, and the present possessors of them have held the estates since, for three generations, others for less, and again some only from the period of the life of the present occupant.

8. Both the *zemindars* and *talookdars* claim the proprietary right to these estates: the latter under the documents they hold, the former contesting their authenticity: declaring them false and disputing their validity, asserting them to have been executed by their ancestors when under restraint or the impressions of fear for their personal safety.

9. From the nature of these people there is reason to believe that those in power availed themselves of the times, and the others yielded to circumstances with a full resolve to defeat the act by every opposition, and to resume their lost property at the first favourable opportunity which the change of the *amil* or decline of the power and influence of the *talookdars* might furnish.

10. The case of Subsookh Roy, in Chail, which came under the notice of the Board, exemplifies the above; also that of Chintamun, in Soraon, of Golam Kurruk, in Kurrah, and Golam Mukdood in Kuralee. Every one of these were *talookdars* to a great extent, and now possess in their descendants, with an exception to Deokee Nundun, scarce an acre of land, the whole having reverted to the ancient proprietors.

11. Deeds of trust were drawn out and signed in cases where the inferior landholders from poverty or disability to contention, fearing the power of the *amil* or of a powerful neighbour, and to secure their property and gain a protection to themselves and families, placed the whole in the hands of a *chowdree*, or headman in the *pergunnah*. These persons have long retained the estates, but the proprietors now dispute the tenures, alleging the trust to have existed only with the necessity of the measure.

12. The additions which the *talookdars* made to their original properties through the authority of the *amil*, were when they stood security for the revenues, and in recompense were declared the real *zemindars* or possessors; when they paid up the balances of defaulters or of those who absconded either from fear or inability to pay up the revenues, in which instances the lands were given over by the *amil* to the person liquidating the arrears; and where from favour of the *amil* they were permitted to dispossess any one of a property they coveted and thus acquired.

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13. The rights of the village *zemindars* consist from prescription, the usage of the country, and in some cases on documents where they have purchased, or their ancestors before them.

14. The collections of the village *zemindars*, where the estates are attached to *talooks*, are made by these *talookdars*, they collecting immediately from the inferior *zemindars* when on the spot, or through their agents, denominated *karinda*, *sarbarar*, &c., when absent; where the inferior proprietor has engaged on terms and received a *puttah*, the payments are made according to that document; in other instances, the payments are received from the cultivators or *asamis*.

V.—From W. J. SANDS, Esq., *Collector of Bareilly*, to COMMISSIONERS for the *Ceded and Conquered Provinces*,—dated Bareilly, the 24th May, 1808.

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BAREILLY.

GENTLEMEN,—I have the honor to acknowledge the receipt of your Secretary's letter of the 23rd of March last, on the subject of the tenures of the several classes of persons employed in the collection of the public revenue, whether under the denomination of *rajah*, *talookdars*, *zemindars*, or *moocuddums*. *Rajahs*—of this denomination there are only two persons in this district, *Rajah Ruggonath Singh*, of Powaine and *Rajah Rao Ram Singh*, of Khyragurh.

2. With respect to the family of the former, they have been in possession for upwards of 60 years. It would appear that Jowahir Singh and Oudy Singh, *Rajpoots*, residents of Chukla Khyrabad, obtained forcible possession of Powaine, and that Oudy Singh left it to his grandson, Bhugwunt Singh, the ancestor of the present incumbent. He admits no claim on the part of inferior landholders, many of whom assert claims, and whose rights are reputed to be just. Ruggonath Singh receives *nankar*, and his right as *zemindar* has been so far admitted by Government that I do not conceive any separation could be made but under a decree of Court in favour of individuals.

3. I am not prepared to state particulars regarding Khyragurh. The present incumbent is styled *zemindar*, but there are other claimants to that right, and Rao Ram Singh has never yet faithfully executed his engagements, and I am of opinion it will be requisite to transfer the *pergunnah* at the ensuing settlement. *Talookdars* (known by the name of *theekadars* in Bareilly):—the *talooks* are in general held in farm from our Government by farmers who assert no claim, and they admit the rights of village *zemindars* when founded on written documents, or when the individual is reputed and acknowledged by the inhabitants to be the proprietor of the soil, and they become in some cases under—farmers.

4. There are, however, some *theekadars* who from long possession assert a right, and who deny the proprietary right of village

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zemindars: who on the other hand, assert claims on written documents, and as the acknowledged heirs of the reputed proprietors of the soil.

Zemindars.—Some hold possession under written documents: others, as their hereditary right.

5. The other persons through whom the collections are made are styled *theekadars*: some of them are *nocuddums*, others strangers and in some instances, the acknowledged *zemindars* and proprietors of the soil have executed *ikrarnamahs* in favour of farmers tendering proposals for their farms in preference to assuming the management themselves, and in return they receive either money or a certain quantity of land, or other remuneration agreeably to the usage.

6. The proprietary right in the soil of the acknowledged proprietors is extremely doubtful. From the great facility with which in this part of the country deeds are produced, it is difficult to decide the right, if any should really exist.

7. I take this opportunity to suggest that a proclamation be issued under your authority, explanatory of the Resolutions of Government communicated in Mr. Secretary Sherer's letter of the 17th of March, for general information. It may tend to prevent numerous applications to you and to the Courts of Justice from farmers who may be dispossessed under those orders, and consider themselves aggrieved.

VI.—From J. D. GUTHRIE, Esq., Collector, Saharunpore, to the
SECRETARY TO THE BOARD OF COMMISSIONER, Allahabad, dated
Saharunpore, the 14th April, 1808.

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SAHARUNPORE.

SIR,—I have the honor to acknowledge the receipt of the orders of the Board of Commissioners under date the 23rd ultimo, on the subject of an arrangement in the contemplation of the Governor-General in Council to provide for the separation of the village *zemindars* from the authority of the persons through whom they have been accustomed to pay the revenue, but who possess no substantial right in the soil, and containing several points of reference connected therewith, to which I have now to reply.

2. Considering the orders of the Board as not intended to apply to persons through whom revenue is paid on account of lands held by them in farm during the term of the present settlement, the only description of persons in this district to whom the first paragraph of your letter bears reference are, I apprehend the *talookdars*, as the term *talookdar* is understood here, and the *mo-cuddums*. The class of *talookdars* consists of the following persons; *Rajah* Ram Dial Singh, *Rajah* Nyn Singh, Row Ramdhun Singh and Row Ajeet Singh, who are the most considerable landholders in the district, together with Zoolficar Ali Khan and Berhmund Khan, whose *talooks* are much less extensive than those of the other persons named.

3. All the abovementioned persons hold their *talooks* under *inokurree* tenures. I have not deemed it advisable to call on them to produce the title deeds without receiving the orders of Government for that purpose, but, from the statements of the *canoongos* and the information obtained from other sources, it appears that all the *talooks* in question have been enjoyed in *istimrar* by the present *talookdars* or their ancestors, during the last 40 years, or since 1175 *Fuslee*, and in some instances for a much longer period of time, but that additional grants of land now forming a part of the *talooks* were granted in *istimrar* at different times subsequently to the date abovementioned.

4. The *talookdars* possess a proprietary right in the soil with the exclusion of certain dependent *zemindaries* incorporated in their

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talooks, but none of them lay claim to such dependencies except Nyn Singh, who claims the proprietary right to several estates attached to his *talook*, as well as to hold them *istimrar*, to which similar claims have been preferred by different persons and supported on both sides by written documents; viz., by Meer Zamin Ali, Meer Hydur Ali, and Meer Mohsun Ali, and by Atta Hossein Khan, Kullunder Ali Khan, and Atta Ali Khan. On the former of these claims proceedings have already been held and submitted for the orders of the Board; but I have been prevented from making an investigation on the claim of Atta Hossein Khan, &c., &c., owing to their having hitherto delayed to attend my summons issued to them for that purpose.

5. It further appears that the dependent *zemindaries* were incorporated in the *talooks* when the latter were granted in *istimrar*: that the general management of all lands comprehended therein, was vested solely in the *talookdars*, from whom the consolidated revenue was received immediately into the Public Treasury. The aggregate annual amount of revenue payable by the *talookdars* is Rs. 2,46,863-15-3, which continues to be realized *huzooree tehseel*, and consequently free from any expense to Government on account of collection, and with the exceptions which have been noticed, none of the actual proprietors of estates incorporated in the *talooks* have preferred claims to separation therefrom.

6. The term *mocuddum* is often applied to *zemindars*, but the class of *mocuddums* to which I have to allude possess no right in the soil, being merely the medium through which a portion of the *zemindars* have been accustomed to pay the revenue, and corresponding, I believe, with the *jeth ryots* in the Lower Provinces.

7. The *mocuddums* enjoy garden ground, or *baghs*, free from the payment of revenue, called *bhoonda*, and likewise receive an allowance of *inam mocuddumee* assigned for their maintenance by former Governments, which they do not hold under *sunmuds* but by prescription, and the usage of the country.

8. I have further to state in reply that the proprietary right claimed by the village *zemindars* is in a few instances founded on written documents, but in general on usage and prescription solely.

VII.—From A. ROSS, Esq., Acting Collector, Agra, to the SECRETARY TO THE BOARD OF COMMISSIONERS in the Ceded and Conquered Provinces,—dated the 15th May, 1808.

SIR,—I have to acknowledge the receipt of your letter of the 31st instant, calling for my reply to the Board's inquiries under date the 23rd of March, on the subject of the tenures of the village *zemindars* and *talookdars* in this district.

2. The only landholders in this district who, each holding several village *zemindarees*, can be considered as coming under the description of *talookdars*, are the following:—

Thakoor Rampal—who holds six estates, or *zemindaries*, in *Pergunnah Shumsabad*, three in *Pergunnah Mundooch Ahun*, and three in *Pergunnah Nahurgunj*, the *jumma* of the whole in the present year being Rs. 18,000.

Thakoor Dass.—Six estates, *jumma* Rs. 2,931, *Pergunnah Futtahabad*.

Sree Kishen.—Five estates, *jumma* Rs. 2,273, *Pergunnah Futtahabad*.

Sook Lall, Choudree.—Five estates, *jumma* Rs. 4,602, *Pergunnah Futtahabad*.

Bela Kishen.—Five estates, *jumma* Rs. 2,206, *Pergunnah Futtahabad*.

Essur Singh.—Three estates, *jumma* Rs. 1,647, *Pergunnah Futtahabad*.

Sookes Mass.—Twenty-one estates, *jumma* Rs. 22,532, *Pergunnah Futtahabad*.

Bela Kishen Singh.—Two claims for rights of *Pergunnah Futtahabad*, as his *zemindarees*, *jumma* Rs. 2,555.

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4. From what I have learned it would appear that Rampal and the *talookdars* in Futtehabad first got possession of the estates now held by them either by favour of the *amils* as farmers, or by becoming security for the *zemindars*. They do not, I believe, dispute that the *zemindarce* right is vested in the village *zemindars*, and I conjecture the only pleas under which they will claim to retain possession will be, either that the lands have been mortgaged to them, or that large sums of money have been laid out by them in their improvement.

5. With respect to the claim of *Rajah* Pertab Singh to *Pergunnah* Bah Pinnahut, the following is the substance of the information which has been given to me. Bukht Singh, the *Rajah* of Bodawur, the father of the present *Rajah* Pertab Singh, was an independent *Rajah* possessing a considerable extent of country in which was included Bah Pinnahut, the *pergunnah* now in question, and which moreover formed a part of his *khas zemindarce*. In the year 1145 *Sumbut*, *Rajah* Bukht Singh having given assistance to the *Rana* of Gohud against Madho Rao Scindeah, that chieftain took possession of his country and appointed *amils* on his own part to collect the revenue from it, leaving to the *Rajah* only thirty villages (situated in Bah Pinnahut, and which Pertab Singh now holds rent-free) for the maintenance of himself and family. From the year above mentioned until the year 1210 *Fuslee*, the revenue of *Pergunnah* Bah Pinnahut continued to be collected from the village *zemindars* by *amils* on the part of the *Mahratta* Government. In the year 1211 *Fuslee*, the first year of our Government, the *Pergunnah* was farmed by a person named Birj Basee Lall, who was the *amil* in the preceding year. In 1212 it was farmed by Sheo Nundun Ditchit, the *Dewan* of *Rajah* Pertab Singh, and it is now farmed by the same person.

6. It may be necessary here to inform the Board, that no accounts of the present assets of the several estates composing the *pergunnah* of Bah Pinnahut have yet been obtained. I called upon Sheonundun Ditchit to prepare and transmit to me an account of the different articles of produce in the *pergunnah* and of the quantity of land in cultivation, under the Board's orders of the

5th of September last, but he declined to furnish it and I thought it was unnecessary to take any further measures, as it was not to be expected that true accounts of any kind would be delivered either by him or by the *canoongos* while under his authority. The enclosures are a copy of Sheonundun Ditchit's reply to my *peruannah* calling for the account abovementioned, and a copy of a letter addressed to me by the *Rajah* on the same occasion.

7 If the settlement is to be concluded with the *Rajah*, the accounts of the collections made by the *amil* of the former Government will be sufficient for determining the amount of the *jumma* to be paid by him. If it is to be concluded with the *mosussil zemindars*, true accounts after such determination shall be made known will then be obtained from the *canoongos* of the amount collected from each different estate by Sheonundun Ditchit during the four last years, from which accounts, and the accounts of the collections of the former *amils*, a pretty accurate assessment may be formed.

8 The present *jumma* of the *pergunnah*, as already stated, is Rs 90,000. The amount realized from it in 1210 was Rs 1,40,000.

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GORUCKPORE.

VIII.—From T. BALFOUR, Esq., Collector of Goruckpore, to the BOARD OF COMMISSIONERS,—dated the 6th May, 1808.

GENTLEMEN,—In reply to your Secretary's letter of the 23rd March last, I beg to submit to you the following particulars relative to the tenures under which the different landholders in this district deem themselves the proprietors of the soil in their respective estates.

2. The ancient landholders, whether under the denomination of *zemindar*, *talookdar*, *Rajah* or *Baboos* are admitted to have a proprietary right arising generally from the length of time their ancestors had been in possession of their lands, and some of them hold *sunnuds* granted to them by the former Governors of the country.

3. Many of the village *zemindars* usually called *birteahs*, are in possession of documents by which the *Rajahs* made over to them the proprietary right in their villages, but it appears that notwithstanding the proprietary right of these *birteahs*, the settlement of their lands during the former Government was made with the *Rajahs* whenever they were willing to enter into engagements, and they collected the revenues from these village *zemindars*.

4. I beg to lay before you a copy of the *birtputy* usually granted by the *Rajahs*, and although this deed of transfer does not specify whether the *birteah* or village *zemindar* is entirely independent of the *Rajah*, yet as the *birteah* must be considered as the proprietor of the soil in his village, I wish to know if the ensuing settlement is to be concluded with the *birteah*, excepting in such instances where it is particularly mentioned in his *birtputy* that he is to continue to pay his revenue through the *Rajah* or superior landholders.

5. For further particulars regarding the rights of the *Rajahs* or superior landholders, and the village *zemindars*, allow me to refer your Board to my report, dated the 30th April, 1807, to the Board of Revenue relative to the grounds on which the *Rajahs* lay claim to a *nankar* or *malikana*.

IX.—From J. D. ERSKINE, Esq., *Collector of Bundelkhund*, to SECRETARY TO THE BOARD OF COMMISSIONERS in the *Ceded and Conquered Provinces*,—dated 18th April, 1808.

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BUNDEL-
KHUND.

SIR,—I have the honour to acknowledge the receipt of your letter of the 23rd ultimo, desiring me to report to you, for the information of the Board of Commissioners, the nature of the tenures of the several classes of persons (who are not avowedly mere officers of Government) at present employed in the collection of the public revenue, whether under the denomination of *Rajah*, *talookdar*, *zemindar*, *mocuddum*, or any other appellation.

2. I have the honour of acquainting you, for the information of the Board, that there are no tenures of the above description in the *Zillah* of Bundelkhund. The revenues of the lands in this district are, in all instances, with the exception of those lands which are let in farm, paid to the officers of Government by the village *zemindars*, who are the cultivators of the soil, and from whom the engagements for the revenue have been taken.

3. It may be proper, however, to add, that a claim of the above nature has lately been preferred to me by a person who styles himself the *rajah* or *zemindar* of the whole of the *pergunnah* of Beer Ghur. A claim to the *talooka* of Kalian Ghur has likewise been presented to me by a person, who states that he is the *zemindar* of that *talooka*, but was, some years ago, dispossessed by the *Bundelas*. Both claimants have been directed by me to establish their rights in the Court of Justice.

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ALLYGURH.

X.—*From C. RUSSELL, ESQ., Acting Collector, to SECRETARY TO THE BOARD OF COMMISSIONERS, Allahabad,—dated Camp, the 9th April, 1808.*

SIR,—I have the honor to acknowledge the receipt of Mr. Secretary Sherer's letter under date the 23rd ultimo, and, in conformity to the orders of the Board, I herewith transmit the required statement of the land included in the several *talookdarees* and *zemindarees* in this district, which I request that you submit to them for their information.

2. The importance of this subject cannot fail to be considered by the Board with that attention which it merits. As involving the peace and tranquillity of this country, as affecting the privileges and interests of the most powerful individuals in our Provinces, the question assumes a delicacy and importance equal to any which has been brought forward since the establishment of our Government. It is not to this district alone that this observation applies. As a general measure adopted for the regulation of the whole of our recently acquired territory, the consequences must be calculated, and those consequences cannot be viewed without reflections of the most serious nature.

3. It is doubtless notoriously evident that, in the majority of the *talooks*, and of the nominal *zemindaree* estates of our principal landholders, the proprietary right in the soil is not vested in the possessors. A vast proportion of the lands have been successively annexed to their estates from time to time through intrigue; and by means of that power and influence which they have possessed, they have taken advantage of the destructions and revolutions which have prevailed, and they have, in many instances, founded their own consequence and authority upon the weakness of the ruling power. But, whatever may be the means by which they have obtained their present influence, whatever may be the nature of the tenures by which they hold their lands, they will not be the less tenacious of maintaining the former, or the less jealous of the right of possession. They have hitherto considered power to constitute right, and pride and self-interest will operate with preponderating bias upon their minds.

4. In regard to the various tenures under which *talooks* and *zemindarees* are held in this district, I have annexed to the statement such general information as I possess for the consideration of the Board. From it, they will observe that they are none of them of recent date, that some are the hereditary property of the individuals descending to them from their ancestors, while others have devolved in patrimony, or have been held for a series of years by the present possessors, who, notwithstanding, they may not have any proprietary right in the soil, consider themselves, from long usage, to be vested with all the rights and privileges of a *zemindar*.

5. I am not prepared to specify any written documents which the dependent *zemindars* may possess. From the inquiries which I have made, however, and judging from local customs, I am inclined to believe any right of property in the soil to be entirely founded on usage and prescription. The *talookdars* possess *pottahs* granted under former Governments, in which they are styled *zemindars* of *talookdars*, and as they attach the validity of regular *sunnuds* to these *pottahs*, the Board will understand from this circumstance how far they may admit or deny the claims of the dependant *zemindars*.

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FURRUCKA-
BAD.

XI.—*From H. G. CHRISTIAN, Acting Collector, Furruckabad, to SECRETARY TO THE BOARD OF COMMISSIONERS, in the Ceded and Conquered Provinces,—dated 6th June, 1808.*

SIR,—I have now the honor to acknowledge the receipt of your letter bearing date the 23rd of March last, acquainting me that the Right Honorable the Governor-General in Council has it in contemplation to provide for the separation of the village *zemindars* from the authority of those through whom they have been accustomed to pay their revenue, but who possess no substantial right or interest in the soil of such village *zemindarees*, and directing me to report the nature of the tenures of the several classes of persons who are not avowedly mere officers of Government, at present employed in the collection of the public revenue, &c.

2. In conformity with the above instructions, I have ascertained, as accurately as possible, adverting to the nature of the investigation, the rights and tenures of the different *talookdars* in this district, and have the pleasure to enclose an abstract statement of them for the information of the Board, which I trust will be found sufficiently explicit.

3. In general, it appears that the rights of the village *zemindars* are founded on usage and prescription; very few of them being now in possession of written documents.

4. The right and interest in the soil of the dependent landholders will be admitted by the superior landholders in proportion to the means the former may be in possession of to substantiate their claims in the event of their being induced to prefer them; and in general the *talookdars*, from long and undisturbed possession, consider themselves the sole proprietors; and in some instances, the *zemindars* of the different villages at present incorporated in the *talooks* have either been induced to renounce all right to the estates, contenting themselves with a small quota of the produce, or to avoid further persecution have, with their families, fled the country.

5. The period the village *zemindarees* were originally incorporated in the *talooks* to which they are now appendant, will be seen in the statement enclosed. The *talooks* of this district appear to

have been formed generally from the following circumstances. If a considerable landholder performed any services for the estate, he was rewarded by having two or three villages contiguous to his own estate annexed; or, if any landholder was in arrears, and it was not convenient to the reigning power to exercise coercion for the realization of the same, the village was annexed to the estate of the nearest most considerable landholder, who might have the means of suppressing the turbulence and contumacy of the *malgoozar* without any additional expense or hazard to the State; and, in some instances, several villages for arrears of revenue were bestowed on persons on their paying the amount of arrears. Some of the superior *talookdars* claim the right of property in the soil of the villages appended to their *talooks* from written documents, others on prescription; and they all, from the information I have been able to obtain, seem to consider that the several rights of the *zemindars* were annulled at the time of the incorporation of their estates.

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TUMBUK-
NAD.

6. I beg you will acquaint the Board, that, adverting to the comparative smallness of the *talooks* in this district, the little authentic information obtainable on the subject without a minute research, as the *canoongos* themselves are, perhaps, too much interested in the subject to be communicative, I conceive it would be an arduous undertaking to make a separation; at least to bestow the estates composing the *talookas* on the real proprietors without a regular and minute investigation of individual claims. I therefore beg to suggest that, previous to any division taking place, the several inferior landholders be directed to prefer regular suits in the *Zillah Adawlut*.

7. I take the present opportunity to solicit the orders of the Board as to the period of settlement to be made with the *talookdars*; if a separation of the *talooks* is in contemplation, I should suppose a quartennial settlement would be the most expedient.

and Jye Gopal Pandey, in Goruckpore, was found to have accumulated into two *talookas* of his own creation, near 200 villages, on the strength of his having paid up at the time of the Cession the balances due by the persons who had farmed under the *Vizier's* Government, two *mehals* under the same denomination which he gives to his *talookas*, a considerable proportion of which villages formed no part of the said *mehals* at the time of the Cession, and in none of which the persons from whom he purchased them possessed any right of property.

6. The separation of the several villages thus incorporated by the *tehseeldars* or their dependants in these nominal *talookas*, will be readily effected by a similar declaration as has been above suggested in the case of the *theekadaree talookas*, that the circumstance of their being included in the present engagements of the ostensible *talookdar* shall alone form no obstacle to the separation of such as may be found to be the actual property of the party claiming separation.

7. We shall have the honour, when we submit for your Lordship's consideration the settlement of the two districts here alluded to and of *zillah* Cawnpore, to bring under your Lordship's revision a particular statement of the very extensive permutation of property which have taken place in those districts since the Cession by public sale, and to submit specific propositions for affording redress when the circumstance of the case may admit of it. In the meantime, on a consideration of the private acquisitions made by the *tehseeldars*, we take the liberty of suggesting the expediency of extending to the Ceded and Conquered Provinces, with some amendments necessary for giving it effect, the prohibition which was long since promulgated in the province of Benares, against the private purchase of lands in arrear of revenue by the *tehseeldars* or their relations, and of enacting some legislative provision for the security of landed property against obsolete and pretended titles. The misuse of their official influence by the *tehseeldars* of the acquisition of the estates under their authority, is so manifest a breach of their duty, and has been productive of such extensive injury, that we do not hesitate in proposing to make the prohibition retrospective, and the pretended titles under old bills of sale taken by the different *amil*s during the

Vizier's Government, and which appear never to have had effect or at least not beyond the existence of the *ami's* official authority, have been in so many instances purchased as an instrument of oppression on the parties who were at the time of the Cession, and had been for a series of years previous to it, in undisturbed possession, that a retrospective declaration of the illegality of such purchases can alone be effectual. Such purchases of disputed titles are, in the English Law, an offence highly punishable, and there appears no reason for not viewing it as equally atrocious in this country.

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8. The provisions which should invalidate acquisitions made under these circumstances being intimately connected with the separation of the village *zemindars*, we have included them in the rules now submitted for your Lordship's consideration.

9. The question of their separation in the remaining *zillahs* of these Provinces appears liable to no difficulty on the grounds of either right or policy.

It is there reduced to the simple question of property, and, as your Lordship has declared the right of Government to cause the village *zemindars* to be separated from the authority of persons through whom they now pay their revenue, but who possess no substantial permanent right and property in the soil, notwithstanding the principle of continuing the persons who had engaged for the first temporary settlement in possession of the lands during the whole of the decennial term, the only preliminary point to their separation is to ascertain in which party the permanent right of property in the soil is vested.

10. The information received from the Collectors regarding the nature of the tenures of the several classes of landholders, does not furnish sufficient data for defining with legislative precision the cases in which such separation shall or not take place; nor does there seem, from the nature of the question, any necessity for any such precise definition. It appears on the contrary, sufficient to rest the thrif of separation on the right of property, to declare those village *zemindars* entitled to an independent possession of their estates who may establish an independent proprietary right in the

soil, and to leave all other villages appendant to the *talookas* in which they are now included, whether the proprietary right is found to be in the *talookdar*, or is not found to be in the claimant.

11. Though the steps necessary for ascertaining the preliminary point be, in fact, an inquiry into Judicial rights, we have in the rules, now submitted for your Lordship's consideration, committed the ascertainment in the first instance to the revenue officers. This measure is conformable to the principle of the rules already laid down by Clause 7, Section 53, Regulation XXVII. of 1803, and Section 10, Regulation IX. of 1805, and has been long since recognized by the provisions for the analogous separation of the independent *talookdars* at the formation of the permanent settlement in Bengal.

12. The *birteeas*, mentioned in the letter from the Collector of Goruckpore, hold by deed, called a *birtputti*, from the superior *zemindars*. Some of these deeds are considered to confer an independent right of property in the soil. But in most instances they confer only a qualified property, the *zemindar* sometimes reserving to himself the manorial right, such as a fine on every transfer by sale, gift, or inheritance, and the formality of his consent to all such transfers, and sometimes expressly stipulating that the revenue is to be paid through his medium. We have accordingly added a clause for securing the rights of the superior *zemindars* over such *birteeas* and over any other description of village landholders similarly situated, and for preventing their separation from the authority of the *zemindaree* to which they are now appendant.

13. Together with the rules for the separation of the village *zemindars*, we have incorporated the revised instructions for the formation of the ensuing settlement, of which we were directed by the 17th paragraph of your Lordship's orders of the 13th May, to submit a draft, and the substance of your Lordship's declaration of the 26th February, regarding the respective rights of the proprietors and farmers of land, and the further orders of the 20th ultimo, regarding the periods for which the settlement is to be formed. - By this incorporation the draft of a Regulation now submitted, embraces every point connected with the formation of the settlement and

will, when it shall have received the final corrections of your Lordship's judgment, form a complete legislative provision for defining the rights and securing the interests of the landholders in these Provinces, under an arrangement so important to them as that of a permanent settlement.

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14. Should your Lordship have determined on the question reserved for future consideration in the 4th paragraph of your order of the 20th ultimo, regarding the provision to be made for actual proprietors excluded from the permanent settlement, your Lordship's determination can be substituted for the fourth clause of the annexed draft. To have reserved the transmission of this draft until the receipt of your Lordship's orders on this subject, and on the subsidiary points mentioned in the 6th paragraph, might have led to inconvenient delays. But such of these as are connected with the permanency of the settlement can, if your Lordship approve of the principle of the annexed Regulation, be, by your Lordship's directions, incorporated into it.

15. On the receipt of your Lordship's orders of the 13th May and 20th ultimo, respectively, they were immediately communicated to the several Collectors under our authority, with the necessary instructions for modifying in conformity to them, any settlement which might have been already concluded on different principles.

16. We take the liberty of adding our request that the original papers now submitted may be returned to us.